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Forty-sixth session
Agenda items 20 and 68

ADMISSION OF NEW MEMBERS TO THE UNITED NATIONS

REVIEW OF THE IMPLEMENTATION OF THE DECLARATION ON THE STRENGTHENING OF INTERNATIONAL SECURITY

Letter dated 22 May 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to forward, enclosed herewith, the statement of the Government of the Federal Republic of Yugoslavia on the occasion of the admission of the Republic of Slovenia, the Republic of Croatia and the Republic of Bosnia and Herzegovina to the United Nations (see annex).

I should be grateful if you would have this letter and its annex circulated as an official document of the General Assembly under agenda items 20 and 68.

(Signed) Dragomir DJOKIC
Ambassador
Chargé d'affaires a.i.

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ANNEX

Statement of the Government of the Federal Republic of Yugoslavia on the occasion of admission of the Republic of Slovenia, the Republic of Croatia and the Republic of Bosnia and Herzegovina to the United Nations

1. The Government of the Federal Republic of Yugoslavia recalls the Declaration of the representatives of the people of the Republic of Serbia and the Republic of Montenegro of 27 April 1992, which underlined that "remaining bound by all obligations to international organizations and institutions of which it is a member, the Federal Republic of Yugoslavia shall not obstruct the newly formed States from joining these organizations and institutions, particularly the United Nations and its specialized agencies".

2. The fact that the Republic of Slovenia, the Republic of Croatia and the Republic of Bosnia and Herzegovina have become Member States of the United Nations in no way challenges the international legal personality and continuity of membership of the Federal Republic of Yugoslavia in the United Nations and its specialized agencies.

3. We would like to take this occasion to reiterate that the Yugoslav crisis still has not been resolved and that it has to be taken into account that the admission of the Republic of Slovenia, the Republic of Croatia and the Republic of Bosnia and Herzegovina to the United Nations should not prejudge the results of the Conference on Yugoslavia, the status of the areas under the United Nations protection or the resolution of open questions that within the Conference on Bosnia and Herzegovina should be conducive to a comprehensive political solution respecting the legitimate rights and demands of all three constituent peoples from this Republic.

4. Accordingly, the Government of the Federal Republic of Yugoslavia hopes that the admission of the Republic of Slovenia, the Republic of Croatia and the Republic of Bosnia and Herzegovina to the United Nations will contribute to the constructive cooperation of the Federal Republic of Yugoslavia with the Republic of Slovenia, the Republic of Croatia and the Republic of Bosnia and Herzegovina in the resolution of all open questions in their mutual relations.

5. It is the understanding of the Government of the Federal Republic of Yugoslavia that a general and complete embargo on all deliveries of weapons and military equipment, established by the Security Council under its resolution 713 (1991) and confirmed in subsequent relevant resolutions remains in force and shall be applicable to all territories of the former Socialist Federal Republic of Yugoslavia until the Security Council decides otherwise, notwithstanding any decision related to the recognition of the independence of some Republics, i.e their admission to the United Nations, in accordance with paragraph 33 of the report of the Secretary-General (S/23363) and paragraph 6 of resolution 727 (1992).

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REVIEW OF THE IMPLEMENTATION OF THE DECLARATION ON THE STRENGTHENING OF INTERNATIONAL SECURITY

SECURITY COUNCIL
Forty-seventh year

Letter dated 26 May 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to transmit, enclosed herewith, the letter of the Vice-President of the Presidency of the Federal Republic of Yugoslavia, Dr. Branko Kostić, addressed to you (see annex).

I should be grateful if you would have the present letter and its annex circulated as the official document of the General Assembly, under agenda item 68, and of the Security Council.

(Signed) Dragomir DJOKIĆ
Ambassador
Chargé d'affaires a.i.

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ANNEX

Letter dated 25 May 1992 from the Vice-President of the Presidency of the Federal Republic of Yugoslavia addressed to the Secretary-General

The Presidency and Government of Yugoslavia have closely reviewed the contents of your report of 21 May 1992 regarding the deployment of the United Nations Protection Force (UNPROFOR) in the areas under United Nations protection, the contents of the demarche of the President of the Security Council of 21 May 1992, as well as the text of Security Council resolution 752 of 15 May 1992.

The Presidency and Government of Yugoslavia fully appreciate the justified concern of the United Nations over the Yugoslav crisis and the efforts to overcome it. We have repeatedly underlined and we wish to do so once again, that the involvement of the United Nations could be the most effective factor in bringing about a peaceful, just and durable solution to the outstanding problems.

In that connection, we wish to express the sincere readiness of the Federal Republic of Yugoslavia to cooperate with the United Nations with a view to making its efforts fully effective.

However, we have to note the immense disappointment and indignation of the Presidency, the Government and the citizens of Yugoslavia at finding ourselves accused, without any cause or valid reason, and despite our persistent endeavours to bring about a peaceful settlement to the Yugoslav crisis and particularly to the conflicts in Bosnia and Herzegovina, of committing aggression against that Republic, without any arguments being offered to back up such accusations.

Allow me to recall a few basic facts.

First, Yugoslavia has on every occasion, including the Conference on Yugoslavia, in the United Nations and in bilateral meetings, persistently warned of the danger of an internecine war breaking out in the event of any hasty decisions on the future of Bosnia and Herzegovina prior to a political settlement having been negotiated among the three constituent nations of that Republic.

Those warnings went unheeded. An internecine war has broken out, taking a vast toll in human lives, and it should be stopped as soon as possible. However, the responsibility for that war is being shifted from those who have provoked it and is being planted instead, without any justification, on Serbia and Montenegro.

Secondly, the Federal Republic of Yugoslavia has demonstrated a maximum degree of tolerance with respect to the premature decisions on the international recognition of Bosnia and Herzegovina. A special declaration was issued by the Assembly of Yugoslavia stating that this country had no territorial claims on its neighbours and therefore none on that Republic either, and that it would not stand in the way of the breakaway Yugoslav republics being integrated in international legal institutions. The Federal Republic of Yugoslavia is consistently abiding by those positions.

Thirdly, the Presidency of Yugoslavia decided on the day of the promulgation of the Constitution of the Federal Republic of Yugoslavia, that is on 27 April 1992, that it would reduce the Army of Yugoslavia to the territory and citizens of Yugoslavia. As a result, all the citizens of the Federal Republic of Yugoslavia who had been in the YPA (Yugoslav People's Army) troops in that Republic were withdrawn by 19 May 1992, together with their share of equipment and armaments. All that remained were three blocked barracks of military cadets with some 1,500 boys under 17 years of age in them whose withdrawal was rendered impossible by paramilitary Moslem organizations. Efforts to withdraw, with the help of special teams, a part of the remaining heavy weaponry were prevented by paramilitary Moslem and Croat units, which massacred the members of the teams appointed by the army to perform this task in the towns of Tuzla and Sarajevo.

The Presidency of the Federal Republic of Yugoslavia and the military authorities of Yugoslavia no longer have any jurisdiction in Bosnia and Herzegovina nor are they taking any decisions that could affect the conflict in that Republic, apart from the fact that they wish to assist any peace-making or humanitarian action.

Fourthly, in addition to paramilitary units composed of Moslem, Serb and Croat people living in Bosnia and Herzegovina, there are about 30,000 regular Croatian troops in that Republic, or a total or over 150,000 men in arms. Surely it is self-evident that more than 60,000 Moslems and 40,000 Croats have been armed with the help of Croatia and those external forces that are adding fuel to the flames of internecine conflicts, while the Yugoslav People's Army was the only legal armed force present there. None the less, it was the one that was the object of the worst political accusations. Now that it has withdrawn from the region, not only is a blind eye being turned to the fact that the war is being waged among the three ethnic groups, but Yugoslavia and its army, which is no longer engaged there, are continuing to be blamed without any reason.

Fifthly, Yugoslavia has repeatedly stressed that the only way to deal with the crisis and conflicts in Bosnia and Herzegovina is via political negotiations and a political consensus among the representatives of the three constituent nations of that Republic. We fully support the Lisbon negotiations under the auspices of the European Community and chaired by Ambassador Cutilheiro, and it is our view that the United Nations should focus its attention on those negotiations as the only feasible and realistic road towards an end to the conflict in Bosnia and Herzegovina.

The option of sanctions against Yugoslavia on the basis of unsubstantiated claims of aggression is deeply unfair and wrong. History knows of no case of a country threatening another without using the army. As of 19 May this year, not a single soldier who is a citizen of the Federal Republic of Yugoslavia remains in that Republic, and the borders with Bosnia and Herzegovina have been closed for 30 days now for any crossings by armed individuals or groups who might try to make them.

History knows of no case, either, or the citizens of a country that has been the subject of aggression fleeing to the country committing the aggression. We are referring to the numerous Moslem refugees from Bosnia and Herzegovina who are seeking shelter in the territory of the Federal Republic of Yugoslavia.

Sanctions taken against Yugoslavia can most certainly inflict a great deal of harm, materially and politically, to our country and our citizens, but they are certainly not the way to deal with the tragedy of the people of Bosnia and Herzegovina. On the contrary, they could spark off very serious problems for the citizens of the Federal Republic of Yugoslavia, without any reason or justification.

It is our firm conviction that the key to the solution to the crisis in Bosnia and Herzegovina must be sought in Sarajevo, not in Belgrade. The Federal Republic of Yugoslavia, and the republics of Serbia and Montenegro, will wholeheartedly support any action conducive to a settlement of the crisis.

I quite understand the concern you expressed in stating that the mission entrusted to UNPROFOR has already been put on trial, at a stage when more than 10,500 of its members are deployed in these territories. You concluded your statement by saying that the progress and success of the whole operation depended on agreement and active cooperation with UNPROFOR. In that regard, let me assure you that our side, including Yugoslavia's army, shall continue to honour the obligations it has assumed by accepting the Plan and to cooperate in every way with UNPROFOR headquarters and units.

With regard to the takeover of responsibility by UNPROFOR in sector East and the breaches of cease-fire, I believe that UNPROFOR commanders report to you regularly regarding the daily breaches of cease-fire, that is, the non-compliance with the agreement by the Croatian Armed Forces and the Republic of Croatia.

YPA units have almost fully withdrawn from United Nations Protected Areas (UNPAs) in Eastern Slavonia. They are ready to withdraw completely and in the shortest possible time, provided that UNPROFOR ensures that Croatian forces will not breach the cease-fire or make any advance movements.

With regard to the takeover of responsibility by UNPROFOR in sectors North and South, we have received reliable information that the harmonization of arrangements is being finalized, based on the agreement previously reached

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at the negotiations between the representatives of the authorities of Krajina and the representatives of UNPROFOR and the European Community. According to that information, the negotiated arrangements would be satisfactory to the local authorities, as well as to UNPROFOR and Croatia. The plan is to deploy military, police and civilian observers of the United Nations and the European Community in territories with a majority Serbian population that are outside UNPAs. The Federal Republic of Yugoslavia hopes that this arrangement will also be satisfactory to Croatia, as indicated in paragraph 23 of the report of the Secretary-General. The Federal Republic of Yugoslavia and YPA hereby express once again their resolve to honour all the obligations that YPA has assumed regarding the deployment of UNPROFOR and to enable them to be realized in full, including accommodation, food, etc.

As for the breaches of cease-fire, the Presidency has been informed by YPA and the local authorities in the zones concerned that such breaches were invariably made by the Croatian side, while YPA units or local forces retaliated only in the most serious instances. The authorities of Krajina are ready to guarantee that fire will never be opened from their side if the Croatian side complies with the agreement. They propose that United Nations and European Community observers be deployed in those areas under the arrangement which is being negotiated.

Instances of forced expulsion of the non-Serbian population in sector East have been reported to us by General Nambiar and Mr. Thornberry. Mr. Goulding was assured, on his latest visit, on 7 May 1992, of our resolve not to allow any forced displacements, regardless of nationality. In each specific instance, we have ordered meticulous investigation and energetic reaction by the responsible authorities to correct possible injustices and prevent new incidents.

The Presidency has received serious assurances from the local authorities that complete security and unhindered return shall be guaranteed to the entire population, without any discrimination on grounds of nationality, and that additional measures shall be taken to prevent any forced displacement of population. The issue is being investigated in detail and with all due attention, and a more substantial report shall be available presently, to UNPROFOR headquarters as well. There are indications that some non-Serbian populations moved out without being forced to do so, which instances have been misrepresented in order to compromise the local authorities.

Yugoslavia is very anxious to see a peaceful and lasting political solution found to the crisis in Bosnia and Herzegovina as soon as possible. Yugoslavia hereby declares that, as a Member of the United Nations, it shall participate with maximum commitment in United Nations activities and decisions and act in concert with them, but in keeping with the fact that Bosnia and Herzegovina is not a part of the Federal Republic of Yugoslavia.

The Federal Republic of Yugoslavia is ready and willing to do its utmost to help unhindered engagement of the United Nations and international humanitarian organizations in Bosnia and Herzegovina. To this end, it is

ready to enable humanitarian aid to be transported across its territory to Bosnia and Herzegovina, and especially Sarajevo. Allow me to inform you that we have already used and shall continue to use our influence in the most constructive way, including public appeals, to have the embattled parties in Bosnia and Herzegovina do the same on the territory of that Republic.

We appreciate the extreme importance of unblocking the airport in Sarajevo. We shall publicly appeal to all those involved in its blockade to lift the blockade of the airport immediately and without fail in order to enable the delivery of humanitarian aid and allow UNPROFOR to take over control of the airport and the delivery of such aid.

The Federal Republic of Yugoslavia shall make a public appeal to all the embattled parties to immediately terminate the bombing of Sarajevo and Mostar and the destruction of other cities and historical monuments.

The Federal Republic of Yugoslavia shall publicly dissociate itself from all unacceptable acts committed by paramilitary formations in Bosnia and Herzegovina, including formations of the Serbian population, and appeal for the cease-fire to be observed in favour of a patient search for a political solution.

Furthermore, the Federal Republic of Yugoslavia shall call upon the Serbian population in Bosnia and Herzegovina to give maximum cooperation to representatives of the United Nations, the International Red Cross, the United Nations High Commissioner for Refugees and representatives of other international institutions in the field.

In conclusion, allow me to express my belief that an urgent visit by representatives of the members of the Security Council to the Federal Republic of Yugoslavia and to Bosnia and Herzegovina would help a great deal in providing a more complete and objective picture of the real situation and in avoiding judgements based on assumptions, rather than established facts.

Reiterating our readiness to fully cooperate with the United Nations, particularly in the implementation of decisions taken by the Security Council, I would like to underscore once again the full commitment of the Federal Republic of Yugoslavia to the objectives and principles of the Charter of the United Nations and the Conference on Security and Cooperation in Europe and a peaceful settlement of the Yugoslav crisis within the framework of the Conference on Yugoslavia, as well as the Conference on Bosnia and Herzegovina.

All the stances and commitments stated above have also been fully agreed with the leaderships of Serbia and Montenegro.

(Signed) Branko KOSTIĆ
Vice-President of the Presidency

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REVIEW OF THE IMPLEMENTATION OF THE
DECLARATION ON THE STRENGTHENING
OF INTERNATIONAL SECURITY

SECURITY COUNCIL
Forty-seventh year

Letter dated 26 May 1992 from the Permanent Representative of Canada to the United Nations addressed to the Secretary-General

I have the honour to attach to this letter a copy, in English and French, of an address by the Prime Minister of Canada, the Right Honourable Brian Mulroney, delivered in your presence at Montreal on 24 May 1992 (see annex).

As you know, during his remarks Prime Minister Mulroney referred extensively to the United Nations, including ways to strengthen its peace-keeping and peacemaking abilities, as well as means to resolve its current financial difficulties. The Prime Minister also spoke about the specific situations in the former Yugoslav republics, including the very dangerous situation in Bosnia and Herzegovina.

I would be grateful if you would have this letter and its attachment circulated as a document of the General Assembly, under agenda item 68, and of the Security Council.

(Signed) Louise FRECHETTE
Ambassador and
Permanent Representative

ANNEX

Office of the Prime Minister

CANADA

Cabinet du Premier ministre

NOTES FOR AN ADDRESS

BY

PRIME MINISTER BRIAN MULRONEY

INTERNATIONAL CONFERENCE OF YOUNG LEADERS

MONTREAL

MAY 24, 1992

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Winston Churchill once wrote that "the world was made to be wooed and won by youth." You have assembled together here, in Montreal, at the dawn of a new age. Never has the opportunity to win the world been greater. Never has the world stood in greater need of the idealism and principles of youth.

The 20th century will soon go into the history books and it is likely to be seen as the most momentous and the most civilized of all time but, also, the most murderous and the most destructive. It is a century that has seen space conquered and humanity's gaze extended to the very edge of the universe. But it is also a time in which more than 500,000 women die each year from pregnancy-related causes, 99 percent of them in developing countries. And 40,000 babies die every day in the Third World, for want of a simple rehydration kit, each of which costs a good deal less than a taxi ride from here to your hotels. It has been a century in which powerful ideas have contested for the hearts and minds of people around the world and in which democracy has firmly and finally prevailed. But it is also a century in which we have witnessed world wars and civil wars, limited wars and police actions, in which almost 200 million people have died, many of them in the name of excessive nationalism. And it is also a world where new threats to international security have emerged; environmental degradation so severe as to threaten the health of people worldwide; drug abuse so destructive that the very fabric of societies in producer and consumer countries alike are gravely weakened; and poverty so pervasive and unyielding as to mock the very idea of progress.

With the end of the Cold War, the most important question humanity now faces is whether the old order will be replaced by competition and disorder or by cooperation and common purpose, whether the forces of nationalism and globalisation can be reconciled and harnessed for the benefit of all. I believe that the answer to that question will be found in the vision and the evolution of the United Nations.

Canada has always been a strong supporter of the United Nations. Canadians had a hand in drafting both the U.N. Charter and the Universal Declaration of Human Rights. We have served on the Security Council five times and we currently serve on the executive boards and governing councils of many of the organization's key agencies. Canada has participated in virtually every peace-keeping operation since the concept was invented by Canadian Nobel Laureate and former Prime Minister, Lester Pearson.

From the Pearson Commission on development to the Bruntland Commission on the environment, from the World Food Program to the World's Summit for Children, which I had the privilege of co-chairing, the United Nations has been indispensable in promoting national cooperation on global issues. Next month in Rio, the U.N. will sponsor a conference on the environment and development which will set an agenda for global environmental cooperation for a decade to come. In 1993, there will be a world conference on human rights; in 1994, there will be a world conference on population and development; and, in 1995, a world conference on women's rights.

These conferences, collectively, will put the U.N. at the epicentre of global change but ensuring international security in the years to come is likely to remain the U.N.'s chief preoccupation and to be the U.N.'s most difficult challenge. To meet that challenge will require a change in attitudes both about the U.N.'s mission and about its means.

With the end of the Cold War, encouraging progress has been possible, under the wise and impressive stewardship of Mr. Javier Perez de Cuellar, the recently retired U.N. Secretary General. His successor, Mr. Boutros Boutros-Ghali, has picked up where Mr. Perez de Cuellar left off and has brought vision, strength and skill to the task of accelerating the pace of reform. In the short time since he has taken office, he has demonstrated a clear commitment to adapt the institution to the times. We are particularly pleased, Mr. Secretary General, with your appointment of a high-level Coordinator for Humanitarian Emergencies.

The U.N. regular budget this year will total $1.03 billion. This regular budget does not include the U.N.'s agencies, such as UNICEF, the United Nations Development Program and the World Food Program which are financed on a voluntary basis at a cost of several billions of dollars more. This year's peace-keeping budget, also paid by assessments, is expected to exceed $2.5 billion, the highest in history.

With a population approaching only 28 million, 31st in the world, Canada is the eighth largest contributor to both the U.N.'s regular budget and its peace-keeping budget. Our annual share of the regular budget and peace-keeping budget and our contributions to all U.N. agencies and operations exceeds $1 billion per year. These are large sums of money but compared to the benefits these programs provide humanity and to the shares which individual countries pay, they are the bargain of the 20th Century.The price of two B2 bombers would cover the entire cost of U.N. peace-keeping.

Mr. Boutros-Ghali is providing welcome leadership, but U.N. reform depends in the first place on the political will of member states. Money is the clearest measure of political will and, regrettably, some member countries still consider their U.N. obligations to be optional. As of April 30, member countries owed the U.N. a total of $1.9 billion, for its regular budget and peace-keeping operations. Governments are right to ask the U.N. Secretariat to meet the highest management standards. And the Secretary General has introduced a number of steps to increase efficiency. But no amount of managerial effectiveness will overcome the deficits and cash flow shortfalls that the U.N. is asked to handle. As of May 21, only 14 countries had paid their full assessments for both the regular and peace-keeping budgets. The Secretary General of the U.N., the holder of one of the most important offices in the world, should not be treated as a modern-day mendicant, forced to wander around wealthy capitals, imploring the decision-makers to pay their bills so that the U.N. can do its job. He must be free to devote his entire time and energy to running the U.N. and solving global problems, rather than passing the hat for peace and security.

It is firm Canadian Government policy to pay its share of the U.N. regular budget on the first day of the U.N.'s fiscal year, January 1. And it is now also firm Canadian Government policy to pay our other assessments on the day they are due. I call upon the political leadership in the debtor countries also to pay their assessments in full and on the dates due.

If the Security Council is to cope with emerging challenges, it too will eventually have to adapt. A year ago, I called for reforms so that the permanent membership of the Security Council would reflect the world as it is today and not as it was in 1945. We believe that the test of membership, as the U.N. Charter itself says, should be the capacity and willingness of individual countries to contribute to international peace and security and to the U.N.'s other purposes. Former President Gorbachev had this test in mind when he recommended in his Fulton, Missouri, speech earlier this month, permanent membership in an expanded Security Council for Japan and Germany, the second and third most powerful economies in the world, and for other leading contributors to U.N. affairs. In any case, permanent Security Council membership should not forever be the privilege of nuclear weapons states.

Canada's goal has always been to secure an effective and active role for the United Nations in the maintenance of international peace and security. Encouraging progress has been made recently in the U.N.'s vigorous reaction to Iraqi aggression, in its imposition of sanctions on Libya for state-sponsored terrorism and in its comprehensive approaches to peace-keeping in El Salvador and Cambodia. But more progress is needed. The first article of its Charter authorizes the U.N. to take effective collective measures for the prevention and removal of threats to the peace. This means timely action by the U.N. to forestall incipient conflicts, leadership by the U.N. to bring people to the negotiating table and follow-through by the U.N. to support agreements concluded.

To fulfil this responsibility, the U.N. and its Secretary General must be allowed to engage actively in preventive diplomacy, peace-making and peace-keeping. Canada strongly supports the Secretary General's proposals for the creation of an emergency peace-keeping start-up fund and an increase in the U.N.'s spending authority to ensure that the organization can respond quickly and effectively to crises. The Secretary General is also right when he argues that the U.N. cannot do it all on its own; regional organizations have a responsibility to act first, as the Charter makes clear. But, while regional organizations have a role to play, they cannot substitute for the unique moral authority of the United Nations. Moral authority sometimes requires back-up by military muscle to be effective, as contemplated by the U.N. Charter itself.

It is clear that traditional peace-keeping nations are encountering increasing difficulty in supplying the demand for forces. The Cold War prevented the United States and the Soviet Union from participating fully in U.N. peace-keeping operations. Cold War calculations are history, now, and Russia has begun to contribute

forces for U.N. operations. Canada would welcome increased participation by both Russian and American forces in peace-keeping operations.Canada would also welcome changes to German and Japanese law to permit U.N. service by their soldiers.

Canada, along with some other nations, maintains troops under national command on standby for peace-keeping. We encourage all member states also to earmark forces for U.N. peace-keeping tasks. Canada also provides officers to the U.N. Secretariat to assist in the planning and conduct of peace-keeping operations. We are prepared to increase such assistance.

Peace-keeping is not cheap -- the force in Yugoslavia will cost $650 million this year. But compared to even the financial price of war -- $1 billion a day in the Persian Gulf -- let alone its carnage and destruction, peace-keeping is very cost-effective.

The demand for U.N. intervention is certain to grow; the end of the Cold War brought many benefits but it also lifted the lid off ethnic conflicts. Less than 10 percent of the states comprising the United Nations are ethnically homogeneous. In Africa, colonialism imposed 52 nation states onto the map of a thousand tribal nations. Southern Asia, the Caucasus, the Balkans and the Middle East are all crazy quilts of ethnic enclaves and ancient hatreds. Many have learned to live together peacefully, even profitably, and will continue to do so. But others have not. In Somalia, marauding gangs are shooting their country back into the stone age. Meanwhile, the Secretary General of the United Nations struggles to enlist the political will of member countries and their resources to end the suffering, there.

In Yugoslavia, where no one could have been in any doubt what was going to happen, the world has been, at best, dilatory and dangerously indifferent. Canada called for U.N. intervention last September and offered soldiers and equipment to help. It took until April for the U.N. Security Council to authorize a full peace-keeping force. The presence of 13,000 U.N. soldiers, including 1,300 Canadians, has brought some relief to a brutalized population in the Croatia-Serbia border area but it has not stopped war from spreading to the other parts of this beautiful and formerly inviting land. The tragic story of Yugoslavia shows that, once unleashed, ethnic conflicts are exceedingly difficult to stop.

The U.N. and its member-states must be prepared to intervene earlier and stronger in the future to prevent such disasters. But what happens when, as in Yugoslavia, disaster cannot be prevented? What kind of signal does it send elsewhere when the world turns a blind eye to the carnage there? Bosnia and Herzegovina followed the rules established by the U.N., the European Community and the CSCE in achieving independence. They took the world's word, but they were left to fend for themselves against heavily armed opposition. The result has been, in the words of the Bosnian foreign minister, "a disgrace for humanity".

As is painfully obvious in Bosnia and Herzegovina, the U.N.'s capability to intervene effectively on behalf of the innocents is inadequate. The U.N. needs to review urgently the full range of options available to it to preserve international peace and security. And member states must find within themselves the political will to use all of the instruments the Charter provides.

Earlier, today, I discussed the situation in Bosnia and Herzegovina with Secretary General Boutros-Ghali. Yesterday afternoon, the Secretary of State for External Affairs, Barbara McDougall, met in Lisbon with her Bosnian counterpart, Mr. Haris Silajdzec, as well. Clearly the situation is both very dangerous and very worrying. There is always ample responsibility to be shared by the parties when nationalism turns violent. In light of these discussions and of other consultations with allies, and in order to encourage a return to reason, the Government of Canada has decided today to take the following actions.

1. I have directed our U.N. Ambassador Louise Fréchette to ask the President of the Security Council to convene an urgent, formal meeting to impose economic, trade and oil sanctions against the Belgrade regime.

2. Canada will, also, urge the Security Council to take steps so that U.N.-escorted relief convoys can reach civilians in Bosnia and Herzegovina and, for humanitarian reasons, so that the Sarajevo airport is open.

3. The landing rights in Canada of JAT Yugoslav airlines are being suspended.

4. The Canadian Ambassador to Belgrade is being recalled for consultations.

5. The Yugoslav Consulate in Toronto will be closed and its diplomats will leave Canada. The recently closed consulate in Vancouver will not be allowed to reopen. These measures are designed to demonstrate the determination of Canada and of the international community as a whole to end the bloodshed in Bosnia and Herzegovina.

Last fall, at Stanford University, I called for a more interventionist role for the United Nations, and I spoke of the need to balance the doctrine of national sovereignty with the universal values of human rights. The U.N. Charter makes an eloquent appeal for "respect for...human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion." In this era, and more so with every day that passes, the interests of nation states and the imperatives of geopolitics must be subordinated to the interests and well-being of people. Indeed, as Flora Lewis wrote in yesterday's New York Times, "the modern world is eroding the notion of absolute and exclusive nation states." The protection of universal human rights is the issue on which modern diplomacy will increasingly be axed.

In such a world, the U.N. should become progressively more important but, as always, the U.N.'s effectiveness will depend on the political will of the nations that comprise its membership. I can state to all here present that the political will for a strong U.N. exists in Canada. I assure you, Mr. Secretary General, and the young men and women present today that the United Nations and its well-being will remain a vital and unshakable cornerstone of Canada's foreign policy. And I guarantee the representatives of the world's youth gathered in Montreal, today, that Canada will do its share and more to ensure that the United Nations enters the next century ready and able to help you all build a better world.

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SECURITY COUNCIL
Forty-seventh year

Letter dated 28 May 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to transmit, enclosed herewith, a letter addressed to you from the Vice-President of the Presidency of the Federal Republic of Yugoslavia, Dr. Branko Kostic, in the wake of the tragic incident that took place yesterday in Sarajevo (see annex).

I should be grateful if you would have the present letter and its annex circulated as an official document of the General Assembly, under agenda item 68, and of the Security Council.

(Signed) Dragomir DJOKIC
Ambassador
Chargé d'affaires a.i.

ANNEX

Letter dated 28 May 1992 from the Vice-President of the Presidency of the Federal Republic of Yugoslavia addressed to the Secretary-General

I would like to convey to you the views of the Yugoslav Presidency regarding the grave crime committed against the innocent population in Sarajevo.

When it seemed that the conditions for an end to the bloody conflicts in Bosnia and Herzegovina were created by the latest cease-fire agreement, the continuation of talks at Lisbon of representatives of the three constituent peoples in Bosnia and Herzegovina and the launching of larger-scale humanitarian aid to the citizens of Sarajevo and Bosnia and Herzegovina in general, an unheard-of massacre of the citizens took place in Sarajevo. Such an act could be committed only by those who consider the cessation of hostilities in Bosnia and Herzegovina unsuitable.

The Yugoslav Presidency, expressing its indignation at the crime committed, most strongly condemns its perpetrators and those who ordered the horrible massacre of men, women and children and demands that they - whoever they are - be identified and punished.

In expressing our readiness to cooperate fully with the United Nations in the settlement of the Yugoslav crisis, we propose, in order to clarify the circumstances of the crime, which, if not elucidated, could have far-reaching consequences, as well as in order to trace its perpetrators, that an international commission, which would report to the Security Council, be set up immediately.

(Signed) Dr. Branko KOSTIC
Vice-President of the Presidency
of the FR of Yugoslavia

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Agenda item 68
REVIEW OF THE IMPLEMENTATION OF THE
DECLARATION ON THE STRENGTHENING
OF INTERNATIONAL SECURITY

SECURITY COUNCIL
Forty-seventh year

Letter dated 29 May 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of a telegram sent to you by Dr. Branko Kostić, Vice-President of the Presidency of the SFR of Yugoslavia (see annex).

I should be grateful if you would have the present letter and its annex circulated as an official document of the General Assembly, under agenda item 68, and of the Security Council.

(Signed) Dragomir DJOKIĆ
Ambassador
Chargé d'affaires a.i.

ANNEX

Telegram from the Vice-President of the Presidency of the Federal Republic of Yugoslavia addressed to the Secretary-General

In our previous letter, we informed you of our efforts to do whatever we can with a view to ending the tragic war in Bosnia-Herzegovina. Today, I would like to inform you that the Serbian leadership in Bosnia-Herzegovina made the following proposal: firstly, that the Sarajevo Airport and the relevant air corridors be immediately demilitarized and placed under the control and protection of the United Nations and, secondly, that the whole city of Sarajevo be placed under the trusteeship of the United Nations. They today publicly announced this proposal in the International Press Centre in Belgrade.

Since this is a concrete proposal conducive to defusing the greatest and the most tragic trouble spot of the civil war in Bosnia-Herzegovina, which should be implemented in the shortest time possible, the Presidency of Yugoslavia feels that the relevant decision in this regard needs to be made.

I avail myself of this opportunity to inform you that a second big convoy with humanitarian relief and food sent by the Republic of Serbia yesterday successfully reached Sarajevo.

Branko KOSTIC
Vice-President of the Presidency

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REVIEW OF THE IMPLEMENTATION OF THE
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SECURITY COUNCIL
Forty-seventh year

Letter dated 30 May 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of a telegram sent to you by Dr. Branko Kostić, Vice-President of the Presidency of the SFR of Yugoslavia (see annex).

I should be grateful if you would have the present letter and its annex circulated as an official document of the General Assembly, under agenda item 68, and of the Security Council.

(Signed) Dragomir DJOKIĆ
Ambassador
Chargé d'affaires a.i.

ANNEX

Telegram dated 30 May 1992 from the Vice-President of the Presidency of the Federal Republic of Yugoslavia addressed to the Secretary-General

Having reviewed the draft of the Security Council resolution on sanctions against the Federal Republic of Yugoslavia, or rather Serbia and Montenegro, prepared by Belgium, France, the United Kingdom and the United States of America, we feel most profoundly concerned and deeply disappointed.

If this draft were to be adopted as it stands, such a resolution would constitute a unique example of a member country of the United Nations being punished even though:

(a) It does not have a single soldier or armed formation outside its territory;

(b) It has not carried out nor is it in the process of carrying out mobilization of its armed forces;

(c) On its territory there are about 400,000 refugees, including thousands of Muslims, who have sought shelter from the brutality of the civil war and who have all been adequately taken care of;

(d) It is providing all kinds of humanitarian aid on a continuous basis to the afflicted population of Bosnia-Herzegovina;

(e) It has publicly and resolutely been using all its political influence to halt the fighting in Bosnia-Herzegovina and is undertaking numerous other steps to affect a peaceful settlement of the crisis.

On the territory of the Federal Republic of Yugoslavia, peace and security reign. In no way is the conflict in the neighbourhood being instigated or encouraged. On the contrary, every effort is being made to prevent it and to restore peace and security for all.

The greatest responsibility for the tragic developments in Bosnia-Herzegovina lies with the authorities of that Republic, which have, in violation of their own Constitution and without prior political agreement of the three constituent national communities inhabiting it, undertaken a series of measures and actions on the domestic and international levels that actually provoked the bloody inter-ethnic war, with its tragic consequences.

The Federal Republic of Yugoslavia did everything in its power to prevent and halt the fighting and to help find a political and peaceful way of dealing with the outstanding problems. At the same time, it sought to avoid interfering in those conflicts: all the citizens of Serbia and Montenegro who

happened to be on the territory of that Republic doing their regular military service at the time of the outbreak of conflicts were withdrawn immediately, with the exception of a number of military cadets, mostly under 17, attending the Military School in Sarajevo, who remained blocked and who were prevented by force from returning to the Federal Republic of Yugoslavia.

This would therefore be an unprecedented case of "aggression" being committed without an army and of the citizens of the country being proclaimed the "victim of aggression" in large numbers and of all nationalities seeking salvation on the territory of the would-be aggressor.

The method chosen to punish and put the blame on the Federal Republic of Yugoslavia cannot contribute to halting the fighting in Bosnia-Herzegovina as the conflict has not been provoked or instigated in any way by the Federal Republic of Yugoslavia.

Having opted for the preservation of their former homeland, the Serbs and Montenegrins, together with the members of other nations living on the territory that comprises Serbia and Montenegro, underlined as their primary concern the safeguarding of peace and advocated a peaceful settlement to all the existing problems on the soil of the former Yugoslavia.

The Federal Republic of Yugoslavia hereby reaffirms:

Firstly, that it respects the territorial integrity of all the other Republics and that it has no territorial claims on others;

Secondly, that it will use all means at its disposal to immediately stop the fighting and to enable effective international control and protection against any outside interference in the conflict;

Thirdly, that it will effectively prevent any military organization or operation on the territory of the Federal Republic of Yugoslavia directed towards Bosnia-Herzegovina. To that end, it invites the deployment of United Nations observers along the border of the Federal Republic of Yugoslavia and the Republic of Bosnia-Herzegovina to control it;

Fourthly, it urges that the necessary conditions be ensured to enable the efficient and unhindered distribution of badly needed humanitarian aid by the opening of all communications in Bosnia-Herzegovina, including placing the international airport in Sarajevo under international control;

Fifthly, it emphatically reaffirms its strong opposition to forcible expulsion and change of the ethnic composition of the population and again urges the earliest possible return of all displaced persons to their homes.

We are confident that impartial study of the evidence on the ground would prove that the accusations against the Federal Republic of Yugoslavia are unfounded. We therefore request that before any measures are taken, the

grounds on the basis of which they have been proposed be checked on the ground. For that purpose we would again like to address an invitation to a delegation of the Security Council and you personally to witness the sincerity of our efforts in the Federal Republic of Yugoslavia to put an end to the war in Bosnia-Herzegovina as soon as possible and to prevent the continued suffering of its citizens and the devastation of their property.

Instead of the proposed sanctions, which are, in our deep conviction, unjust and without precedent, a real contribution to the settlement of the crisis and an act of assistance to the Federal Republic of Yugoslavia, as an active member of the United Nations ever since its inception, would be the urgent convocation of an international conference on Yugoslavia with the participation of the permanent members of the Security Council, a representative of the Secretary-General, the Chairman of the European Economic Community and the Conference on Security and Cooperation in Europe, as well as all the parties involved from Yugoslavia. The conference would be geared towards providing firm guarantees for the implementation of the agreement that would ultimately be reached on a comprehensive settlement to the crisis, including the currently most difficult situation in Bosnia-Herzegovina.

We are hereby enclosing our specific proposal regarding the mandate of this conference (see appendix).

Branko KOSTIĆ
Vice-President of the
Presidency of Yugoslavia

APPENDIX

Proposal for the conference on Yugoslavia

1. All parties shall seek to resolve and overcome all problems in the present crisis in Bosnia-Herzegovina and in Yugoslav territories exclusively through dialogue and cooperation, without confrontations or use of force.

2. All the three confronted parties in Bosnia-Herzegovina shall accept an instantaneous and unconditional cease-fire and establish a joint tripartite group to control that operation, including in that group representatives of the United Nations.

3. In parallel with the launching and implementation of that operation would begin the disarming and demobilization of members of the armed formations of each of the three ethnic communities in Bosnia-Herzegovina, down to a level that would satisfy the requirements of legitimate defence and at the same time contribute to the restoration of mutual confidence. In that process, the leadership of the Federal Republic of Yugoslavia expresses its readiness to take over and transport, with the prior consent of the leaderships of the three constituent nations of Bosnia-Herzegovina and the United Nations Security Council, the heavy weaponry from Bosnia-Herzegovina to the territory of the Federal Republic of Yugoslavia.

4. Concurrently with the implementation of paragraphs 2 and 3, the conference on Bosnia-Herzegovina would resume its work along the lines of cantonal or confederal organization of the three constituent units, on which a tripartite consensus would have to be reached within three weeks from the resumption of the conference.

5. The current conference on Yugoslavia would resume its work based on the approach of equal treatment of both the option for independence embraced by the Republics that have seceeded, and the federal option taken by the Republics that have decided to remain in the common State of Yugoslavia.

6. Normal inter-State relations would be established among former parts of the former Socialist Federal Republic of Yugoslavia, with the prospect of special interlinkage in areas where there are pronounced shared interests.

7. All States created or remaining in the territories of the former Yugoslavia would confirm that they feel bound by all the international obligations assumed by the Socialist Federal Republic of Yugoslavia on the basis of concluded or ratified international treaties, conventions or agreements in all areas, and especially in the field of human rights and rights of national minorities.

8. All these States created or remaining in the territories of the former Yugoslavia would proceed immediately to develop and adopt confidence-building

measures, including measures reducing the level of armed forces, and disarmament, down to a level necessary for legitimate defence and harmonized with the level of armed forces in their immediate neighbourhood.

9. All States created or remaining in the territories of the former Yugoslavia would sign separate bilateral pacts and a joint multilateral pact on friendship, mutual respect and good-neighbourly relations.

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QUESTION OF PALESTINE

SECURITY COUNCIL
Forty-seventh year

Letter dated 5 June 1992 from the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People addressed to the Secretary-General

On behalf of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, I have the honour to draw your attention to the fact that 5 June 1992 marks the twenty-fifth anniversary of the beginning of the Israeli occupation of the 'alestinian territory of the West Bank, the Gaza Strip and East Jerusalem. That occupation, maintained by increasingly repressive policies and practices, continues to this day in violation of international law and Security Council resolutions and in total disregard of international efforts to achieve a just and peaceful settlement of the conflict. Israel's intransigence and its obstinate refusal to recognize Palestinian national rights, in particular the right to self-determination, have so far presented an insurmountable obstacle to such efforts.

The Palestinian people have paid dearly for the occupation with loss of life, loss of land and natural resources, and severe restrictions on their political, civil, economic, social and cultural rights. The Israeli military operations of 1967 were accompanied by systematic and deliberate destruction of Palestinian villages and homes and the renewed dispersal of Palestinians. Almost half a million Palestinians were displaced and one third of them became refugees for the second time since 1948. The Israeli authorities have continued to deny Palestinians their fundamental right to return and to refuse to allow the reunification of families, and have rounded up and deported women and children considered to be living "illegally" with their immediate families in the occupied territory.

Shortly after the war, Israel annexed Jerusalem over the unanimous opposition of the international community, and began the confiscation of Palestinian land and the building of settlements in a process of gradual de facto annexation which continues at an ever accelerating pace. Over 60 per cent of the West Bank and Gaza has already been confiscated under various pretexts sanctioned by military orders. Some 230,000 Israeli citizens have been moved permanently to about 212 settlements throughout the occupied Palestinian territory, including Jerusalem and an increase of 25 per cent has taken place in the past year alone. Israeli Government leaders have repeatedly voiced their intention to remain in perpetual control of the occupied territory, which they have declared to be a part of "Greater Israel". Prime Minister Yitzhak Shamir stated recently that in a few years, "hundreds of thousands of Jews will be living [in the occupied territory] ... and the notion of territorial compromise will fade away like a bad dream." (quoted in The Jerusalem Post, 4 May 1992). This policy of Israel is in clear violation of article 49 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, which the Security Council has declared to be applicable de jure to all the territories occupied by Israel since 1967.

Through this illegal process of colonization, Palestinian towns, villages and agricultural areas are being increasingly encircled, their development restricted, and the unity of the Palestinian homeland is being shattered. Regional land-use and road plans have been devised and implemented to serve the Israeli settlements and to tie them more closely to Israel, bypassing Palestinian towns and villages.

Israel has also appropriated and controls Palestinian water resources and drastically restricts Palestinian use of water for farming and other needs. Discriminatory taxation and other administrative measures stifle the economic development of the occupied territory and make it more dependent on the economy of the occupying Power, Israel.

Moreover, a dual legal system has been established which extends the protection of Israeli civilian law to the Jewish settlers while imposing a separate harsh and discriminatory military law on the Palestinians. Every aspect of Palestinian life is controlled by the military authorities through some 2,000 military orders enacted during the twenty-five years of occupation. The Israeli authorities have also invoked emergency powers to restrict and deny civil and political liberties. Elected municipal councils were dissolved and mayors were expelled or detained and replaced by military governors; organizations have been banned and their officials arrested; trade unions harassed; the Arabic press censored. The Palestinian educational system has been subjected to systematic controls and direct interference in its contents and operation. Through the political screening and dismissal of teachers, censorship of textbooks, expulsion of students and other severe measures, the occupation authorities have sought to suppress any teaching of Palestinian history, culture and politics, and any expression of Palestinian nationalism. Moreover, Palestinian education has suffered due to consistent underfunding and lack of proper facilities.

Since the beginning of the intifadah in December 1987, the repression and oppression of the Palestinian civilian population has increased and continues. Human rights organizations have reported that from December 1987 through March 1992, at least 1,032 Palestinians were killed, most of them by shooting, and over 121,000 were injured by Israeli forces. They have also reported that open-fire regulations for Israeli soldiers have been increasingly relaxed and that undercover units of the army have engaged in killings of Palestinian activists. Studies of conditions in the prisons have documented ill-treatment and torture in Israeli prisons, and the death of at least 10 Palestinians during interrogation since 1987. During the same period, over 15,000 Palestinians were placed under administrative detention for periods of up to six months without charges or trial. Moreover, 66 Palestinians were expelled for "security reasons" (more than 1,300 since June 1967). Towns and villages in the occupied Palestinian territory experienced a combined total of over 11,000 days of curfew, the demolition or sealing of over 2,100 homes, and the uprooting of over 130,000 trees.

The additional damage to the fabric and well-being of Palestinian society resulting from arbitrary mass arrests, prolonged school closings, disruption of the health care system, raids by troops and attacks by armed settlers, denial of freedom of movement, loss of employment opportunities in Israel and the like, are too great to assess in this brief communication. The plight of the Palestinian people under Israeli occupation has been further compounded by the repeated actions which the occupying forces have taken against the personnel of UNRWA engaged in the discharge of the mandate to provide humanitarian assistance to the Palestinian people under occupation.

Israel's determination to maintain the occupation has resulted in a consistent pattern of gross violations of the human rights of Palestinians in contravention of Israel's international obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, as well as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, all of which Israel ratified in 1991. The Committee on the Exercise of the Inalienable Rights of the Palestinian People calls once again on all concerned, and in particular the High Contracting Parties to the Geneva Convention and the supervisory bodies of the human rights treaties, to take all measures in their power to ensure that Israel abide by its obligations as stipulated in those instruments.

It is evident, however, that measures to provide protection to the Palestinians and to restore respect for human rights in and by themselves will not lead to a just and universally accepted solution of the question of Palestine unless they are accompanied by effective action by the international community as a whole, and the Security Council in particular, to ensure that Israel withdraw from the Palestinian and other Arab territories occupied during the 1967 war, in conformity with Security Council resolution 242 (1967)

and the fundamental principle of the inadmissibility of the acquisition of territory by force.

In its first report, submitted to the Security Council and the General Assembly in 1976, the Committee recommended inter alia that the Security Council should establish a timetable for the complete withdrawal by Israeli occupation forces from those territories. The General Assembly has endorsed the Committee's recommendations every year since then and has repeatedly called on Israel to withdraw completely and unconditionally. The Assembly has also requested the Security Council, in the event of non-compliance by Israel, to consider the situation and adopt effective measures taking into account all the powers conferred upon it by the United Nations Charter.

On this twenty-fifth anniversary of the Israeli occupation of Palestinian territory, including Jerusalem, the Committee on the Exercise of the Inalienable Rights of the Palestinian People wishes to draw once again the attention of the Security Council and the General Assembly to the fact that their decisions remain unimplemented and to express its extreme concern at the ongoing efforts by Israel to turn the occupation into a permanent fact. Such a development would not only be a grave injustice to the Palestinian people and a denial of its fundamental rights, it would also continue to cause persistent tension and conflict in the region, and threaten the credibility of the United Nations at a time of historic importance for its efforts to create a better and more just and peaceful world for all. The international community has a duty and a responsibility to ensure that this unacceptable situation is brought to an end.

I would appreciate it if this letter could be circulated as a document of the General Assembly under agenda item 33 of the forty-sixth session, and of the Security Council.

Accept, Mr. Secretary-General, the assurances of my highest consideration.

(Signed) Kéba Birane CISSE
Chairman
Committee on the Exercise
of the Inalienable Rights
of the Palestinian People

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ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK

FINANCING OF THE UNITED NATIONS ANGOLA VERIFICATION MISSION

Note by the Secretary-General

1. The Secretary-General, in his report to the Security Council, 1/ recommended, inter alia, that the mandate, strength and composition of the United Nations Angola Verification Mission (UNAVEM II) should be enlarged to include an Office of the Special Representative for Angola to coordinate all United Nations activities related to the Angolan peace process and an Electoral Division, for the purpose of observing and verifying the Angolan electoral process until its completion. The Security Council, by its resolution 747 (1992) of 24 March 1992, inter alia, approved the report of the Secretary-General and decided to enlarge the mandate of UNAVEM II for the remainder of its existing mandate period.

2. In order to enable the General Assembly to consider the financing proposals of the Secretary-General that would permit UNAVEM II to undertake the added responsibilities, it will be necessary to reopen agenda item 120, entitled "Financing of the United Nations Angola Verification Mission".

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THE SITUATION IN CENTRAL AMERICA:
THREATS TO INTERNATIONAL PEACE
AND SECURITY AND PEACE INITIATIVES

SECURITY COUNCIL
Forty-seventh year

Note by the Secretary-General

The attached document contains the report of the Director of the Human Rights Division of the United Nations Observer Mission in El Salvador (ONUSAL) for the period from 1 January to 30 April 1992. As will be recalled (see S/23999, para. 3), it was decided that ONUSAL's work in relation to the San José Agreement on Human Rights (A/44/971-S/21541, annex) would continue to be the subject of a separate series of reports.

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Annex

REPORT OF THE DIRECTOR OF THE HUMAN RIGHTS DIVISION

INTRODUCTION

1. This report covers the period from 1 January to 30 April 1992 and has been prepared in accordance with the mandate entrusted to the Human Rights Verification Mission by the San José Agreement (para. 14 (1)). The Peace Agreement signed on 16 January (A/46/864-S/23501) and the actual cessation of hostilities on 1 February brought about a major change in the activities of the ONUSAL Human Rights Division. Difficulties directly linked to the armed conflict have gradually disappeared. The cease-fire has been fully observed, and in principle no civilian or military casualties have been recorded, with the exception of the incidents that are being investigated, which are reported on in the chapter on cases and situations relating to international humanitarian law. Irregular recruitment, by either the Armed Forces or the Frente Farabundo Martí para la Liberación Nacional (FMLN), has gradually ceased. Freedom of movement, which was the subject of numerous complaints up until 16 January 1992, has been completely restored.

2. As a result of the new situation the number of complaints has declined, particularly in what were the conflict zones. a/ However, the overall picture still gives rise to concern: summary executions and violent deaths - above all in the Departments of San Salvador, La Libertad and Santa Ana - have continued after the cease-fire, and no effective action has been taken to put an end to them, investigate them or punish the perpetrators. Moreover, there has been a recurrence of the threats against certain non-governmental organizations (NGOs), trade unions, churches and political leaders; even though clandestine organized groups are still active, no measures are being taken to prevent them from carrying out their activities or to clarify the situation. Violations of the right to life, as well as death threats, were a fundamental cause for concern referred to by the Mission in its second and third reports (A/46/658-S/23222 and Corr.1 and A/46/876-S/23580), in which specific recommendations were made to the authorities, concerning both the incidents in question and the State's duty of prevention and investigation. Unfortunately, those recommendations have as yet not been heeded in the manner prescribed in the San José Agreement (para. 15 (d)). Another source of concern was that Maj. José Alfredo Jiménez Moreno escaped from the facilities of the new Military Police. This incident was reported on 7 April 1992, the day before he was sentenced to 30 years' imprisonment for abducting five prominent businessmen, and it was regarded as a sign of the continuing impunity of perpetrators and the complicity that makes such impunity possible, particularly in the military institutions. The Mission recently addressed a letter to the Ministry of Defence on this incident.

3. Forty-two individuals were released under the National Reconciliation Act of 23 January 1992, under which amnesty is granted to perpetrators of

political crimes and related ordinary offences and which is designed to facilitate the progressive reintegration of FMLN members into political and civilian life. That measure means that the provision of the San José Agreement on the release of individuals who have been imprisoned for political reasons (para. 3) is being implemented. Moreover, the Legislative Assembly has enacted two laws to ensure that citizens affected by the armed conflict are provided with identity documents, a step that is required in order to solve the serious problem of personal documentation as required by the San José Agreement (paras. 7 and 8).

4. Furthermore, the organic law on the Office of the National Counsel for the Defence of Human Rights was enacted on 20 February and the National Counsel was appointed on 27 February. The Counsel, who is to perform a very important role, was granted a budget far lower than that requested and has as yet been unable to start his activities. The National Council of the Judiciary Act, which according to the Peace Agreement was to be made public not later than 1 April 1992, has not yet been presented.

5. The Mexico Agreements of 27 April 1991, reaffirmed by the Peace Agreement of 16 January 1992, provide for a major reform of the judicial system, which has been adopted by the Legislative Assembly and has now been incorporated in the Constitution of the Republic. The judiciary receives an allocation from the State budget amounting to no less than 6 per cent of current income. The minimum eligibility requirements for Justice of the Peace are being changed, and it is now necessary to be a counsel of the Republic and of established competence to qualify. A career judicial service has been set up, and there is now a new method of appointing judges to the Supreme Court of Justice. Judges of the Courts of Second Instance and of the Courts of First Instance and Justices of the Peace, who are now integrated into the career judicial service, will enjoy stability and independence in performing their duties. Magistrates or Judges cannot serve as lawyers or as officials of other State organs. Important functions have been assigned to the National Council of the Judiciary.

6. The Attorney-General of the Republic has been given new powers: to conduct the investigation of crimes, through a body whose attributes are to be prescribed by law, without prejudice to the independence of judges in investigating the facts. A change has also been made in military jurisdiction: the special military courts no longer can exercise jurisdiction in the event of a state of emergency. Military courts will now be confined to trying crimes and minor offences committed while on duty of a purely military nature perpetrated by members of the Armed Forces in active service.

7. On 17 March 1992 at the Court of First Instance at Chinameca, Department of San Miguel, the Mission witnessed the handing over of two FMLN combatants allegedly implicated in the death of the two United States advisers David Pickett and Earnest Dawson in January 1991. ONUSAL will follow this trial closely. With regard to the case concerning the El Mozote incidents, the reader is referred to the relevant comments made in the third report,

particularly those concerning the need to examine skeletal remains using appropriate anthropological techniques, and the desirability of calling in international experts in the field to assist in the investigations.

8. This report will concentrate chiefly on two topics. Firstly, it will deal with the right to life and to integrity and security of person (San José Agreement, para. 11), with special reference to the investigation of deaths due to other than natural causes. It will then consider the issue of due process of law (San José Agreement, paras. 11 and 14 (h)), in order to identify crucial issues relating to the administration of criminal justice regarded as being of high priority as a result of the verification activities carried out by the Mission. The two topics are interrelated, since criminal investigations, even at the pre-trial stage, are closely linked to criminal procedure. Those questions will be given special treatment because this report is an introduction to one of the Mission's priority tasks at the next stage, namely, to "help improve the judicial procedures for the protection of human rights and increase respect for the rules of due process of law" (San José Agreement, para. 14 (h)). This report will also deal with the issue of identity documents (San José Agreement, paras. 7 and 8) and with cases and situations relating to humanitarian international law now that the armed conflict has ceased.

I. CASES RELATING TO HUMAN RIGHTS

A. Right to life and to integrity and security of person

1. Summary executions or deaths in violation of juridical guarantees

9. The following case is a particularly good example of the violations of the right to life that have been committed during the period covered by this report.

10. No. ORSS/1008. Nazario de Jesús Gracias, trade-unionist, age 34, residing at the headquarters of the FEASIES trade union in San Salvador. The victim was employed as a watchman in the union building, where he was found dead at 8 a.m. on 2 March 1992. The body exhibited multiple wounds to the head, neck, forearms and hands inflicted with a knife-like weapon. The apartment - including the walls - was covered with blood. The manner in which the body was found indicates that the victim was first bound and blindfolded and subsequently killed with a machete. The total and partial amputation of fingers from the right hand and wounds to the forearms suggest that he attempted to defend himself.

11. The incident created a stir because of its viciousness and its similarity to other crimes which, though as yet unpunished, have been attributed to organized groups judging from the manner in which they were committed. Once again, the preliminary measures taken were entirely inadequate. Many people

entered the room in which the body was found. ONUSAL arrived at the scene before the duty magistrate and learned that no photographs had been taken and that no diagram of the scene had been made. The magistrate, who declined to call the police or await the arrival of police observers from the Mission, did not carry out the thorough examination of the body prescribed by law and left before the police arrived without having the area around the body sealed off. At approximately 6 p.m., as it was growing dark, a Commission from the National Police arrived at the scene of the crime to take fingerprints.

12. Nazario de Jesús Gracias had been captured on 21 October 1991 by the First Infantry Brigade in downtown San Salvador, turned over to the National Police on charges of "conspiracy to subvert" and released after three days. The Mission archives include case No. ORSS/332, under the heading "illegal detention and threats", in which Gracias accused the First Brigade and the National Police of making threats on his life. At that time, Gracias was released after ONUSAL intervened directly with the National Police. Upon his release, Gracias made statements to the press and, apparently, later received telephoned death threats on three occasions.

13. Witnesses from the union headquarters and neighbours state that many former National Guardsmen were present in the vicinity of the murder site in the days leading up to the crime and during the night on which it was committed. On 3 March 1992, FEASIES informed ONUSAL that it was holding an individual named Ulises Jiménez Tobar. This person had been caught by union members photographing people in front of the union headquarters. ONUSAL subsequently learned that union members found in Jiménez s possession a Browning pistol with the identification number scratched off and a card from the Ministry of Defence dated 1 November 1991 identifying him as a "worker under the command of the Territorial Service of the Armed Forces" and authorizing him to bear arms. ONUSAL received a copy of a document which recorded Jiménez's release into the custody of his lawyer and his threats to union members who, he said, would meet the same fate as Nazario de Jesús Gracias.

14. Following an initial interview by ONUSAL with the mother-in-law of Gracias, who lives in the Department of Usulután, four strangers came to the house and made threats. The wife of Gracias confirmed that her husband had been threatened while under arrest in October 1991 and said that he had received an anonymous telephone call at FEASIES three days before his death warning him that he would be killed. The case was assigned to the Court of First Instance on 23 March 1992, or 21 days after it was opened, in contravention of various legal practices.

15. During the period covered by this report, the Mission determined that procedural norms had been violated in one way or another in the following cases. In case No. ORSV/417, concerning the death of Santiago de Jesús Amaya Bermúdez, no security body appeared on the scene after the body was discovered. In case No. ORSM/299, concerning the death of Rómulo Adán Escobar, the court took no action on the motions made by the prosecutors

assigned to the case. In case No. ORSS/815, concerning the murder of José Marino Campos Mos, after the body was identified by the justice of the peace, the Criminal Court of First Instance took virtually no action.

16. Justices of the peace often use persons with no specialized training as their experts, which hampers a thorough investigation. In the case corresponding to charge No. ORSV/417, concerning the death of Santiago de Jesús Amaya, the judge, for purposes of examining the body, appointed as experts a journalist and a professor, who claimed that the victim had received two wounds from a .38 calibre firearm. The autopsy, ordered some two weeks later, established that the body contained five bullet wounds. In case No. ORSV/355, concerning the death of Manuel Antonio Lara Cerón, the judge had the body examined the day after the death was certified. No qualified persons were present; the experts were a mason and a merchant. No autopsy was subsequently ordered in this case. Nor were autopsies carried out in the following cases: No. ORSS/848, concerning the death of Francisca Chávez Gonzales; No. ORSA/453, concerning the death of Pedro Luis Medrano Pérez; No. ORSA/505, concerning the death of José Luis Vallejos Urrutia; and No. ORSS/815, concerning the death of José Marino Campos Mos.

17. Failure to follow established procedures in the preliminary investigation of deaths due to unnatural causes is a widespread practice on the part of both the judiciary and the police. Yet the law requires that the police inform a judge immediately of offences against life or integrity of person or any other offence that may cause serious social unrest. The judge of the court of first instance must investigate personally cases falling within the last category. Justices of the peace perform many of the formalities which are vital to such investigations. This generally happens with initial steps when they are carried out outside the court of first instance. Justices of the peace must inform the court of first instance of those measures within 12 days, even though they always have the authority to carry them out themselves. Many justices of the peace and even judges of courts of first instance act with gross negligence in securing the scene of the crime, obtaining evidence, taking fingerprints, issuing arrest warrants, interrogating witnesses, having the bodies examined by experts or conducting autopsies. The existence of functioning forensic medical institutes at Santa Ana, San Vicente, San Miguel and Usulután, in addition to the one in San Salvador, makes it inexcusable not to order autopsies. Cooperation between judges and investigating authorities is also of the utmost importance.

18. Another frequent occurrence is the failure of staff from the Office of the Attorney-General of the Republic to fulfil their legal obligations in investigating offences. It would be premature, however, to assess their efforts during the period following the most recent constitutional reform, which became effective on 30 November 1991 and gives these individuals new responsibilities (para. 6). The Office of the Attorney-General has begun round-the-clock work programmes and is supervising the installation of new prosecutors' offices.

II. SITUATIONS AFFECTING HUMAN RIGHTS

A. Right to due process of law

19. The Code of Criminal Procedure has been in force since 1974, although it was drawn up in response to much earlier ideas. It sets out a distinctly inquisitorial procedure, although the procedures of trial by jury and public hearings have been introduced for trying certain offences. It is thus a hybrid text in which recent reforms have sought to incorporate certain guarantees into the instrument without modifying it substantially.

1. Extrajudicial confessions

20. Extrajudicial confessions are often a fundamental requirement for pre-trial detention. However, the Code of Penal Procedure ascribes no probatory value to extrajudicial confessions in the case of political crimes. This is due to the widespread conviction among the legal community and society in general that extrajudicial statements are often obtained by means of violence or coercion. The Commission for the Revision of Salvaldorian Legislation (CORELESAL), established in 1984 by the Government of El Salvador to suggest ways of reforming the criminal laws, said that extrajudicial statements "... are most frequently obtained in auxiliary bodies through violence or intimidation ...". b/ The Mission has ascertained that such practices exist and included specific examples thereof in its second report. These situations continue to occur, as demonstrated by recent cases involving the National Police (Nos. ORSV/564 and ORSV/567). However, the Constitution of the Republic (art. 12, para. 3) establishes as a general rule that statements obtained against an individual's will are invalid. This principle is consistent with the provision in the American Convention on Human Rights (art. 8, para. 3), that "a confession of guilt by the accused shall be valid only if it is made without coercion of any kind".

21. In common crimes, extrajudicial confessions are considered to be sufficient evidence if they meet certain requirements. For example, when such confessions are made before an auxiliary body, two witnesses, most often members of the bodies in question, must testify that the accused was not acting under duress. In addition to extrajudicial confessions heard by auxiliary bodies, the Code provides for confessions to be made to two witnesses, even when the two confessions are made at different times and in different places.

22. Within the Ministry of Justice, a unit called Technical Support for Judicial Reform (ATJ), which has been in operation since June 1991, is drafting bills, particularly in the areas of criminal legislation and criminal procedure to bring legislation into line with the guarantees of due process of law. c/ The Ministry bills that were put to a referendum in March 1992 included one on the elimination of extrajudicial confessions. This bill, like others which have appeared thus far, are a positive development in the effort

to modernize the country's legislation on the basis of guarantees and is consistent with some of the most advanced thinking in this field.

2. Administrative detention

23. The auxiliary bodies can detain an accused person for 72 hours, after which they must hand him over to the judge having jurisdiction. During this period, referred to as "administrative detention", the above-mentioned extrajudicial statement is usually given. The Code of Criminal Procedure currently in force became effective on 15 June 1974; its article 143 provided, in accordance with a long-standing legislative tradition in the country, that administrative detention must not exceed 24 hours. In 1977, a subsequent reform established the 72-hour period currently in force. The Mission has noted that it is a common police practice to utilize the maximum period of administrative detention (72 hours), a practice which should be followed only when warranted by the seriousness of the crime and the difficulty of the investigation. It has also noted that the National Police sometimes exceed the maximum period of 72 hours (case No. ORSS/1345).

24. The right of a detained person or prisoner to be brought "without delay" before a judge or an official authorized by law to exercise judicial functions is embodied in the international human rights treaties ratified by El Salvador. d/ Prolonged administrative detention can violate this right. Furthermore, if confessions obtained while in police custody are to be inadmissible, as envisaged by the legislative reforms under way, it would appear logical to shorten the maximum period of administrative detention. A preliminary draft proposal prepared by ATJ, which is consistent with the anticipated elimination of the above-mentioned extrajudicial statement, specifically proposes to limit administrative detention to 24 hours, renewable only by a reasoned decision of a judge having jurisdiction, for a maximum of 48 hours.

3. Incommunicado detention

25. Incommunicado detention is not provided for either in the Constitution or in the laws on criminal procedure. The right of detained persons to communicate with others derives from the basic law which provides for communication with a defence lawyer from the beginning of the investigation (Constitution, art. 12). This right is likewise embodied in the international treaties ratified by El Salvador. d/ The San José Agreement (para. 2 (e)) expressly provided that no detainee would be held incommunicado. e/ However, as the Mission noted on repeated occasions, incommunicado detention appeared to be a de facto practice of many authorities which made arrests, whether or not they were empowered by law to do so.

4. The right to legal counsel

26. The exercise of this right, which is enshrined in the internal and international legal order and in the San José Agreement (para. 2 (e)), is to a large extent limited by socio-economic factors, legislative gaps which the country is attempting to fill and persisting institutional flaws. A large proportion of prisoners lack the economic resources with which to obtain reliable legal counsel. Systematic visits to penitentiaries, penal centres and houses of detention by observers from all of the Mission offices have enabled them to assess the status of the right to legal counsel in practice. It is clear from conversations with prisoners that many who have been incarcerated for more than four or five years have never seen a lawyer. Furthermore, the majority of prisoners interviewed on one occasion in the country's main penitentiary were unaware of their right to select a defence lawyer at the start of the proceedings. The Mission has noted that even prisoners who have a private defence lawyer rarely see him. Administrative transfers of detainees, without notice to judges and lawyers, make the exercise of the right to legal counsel even more difficult.

27. The situation is still worse where accused persons have only a court-appointed lawyer, or must rely for legal assistance on the Office of the Chief State Counsel. Indeed, whether owing to a lack of resources or a sufficient number of lawyers, or to self-imposed restrictions without much legal basis (such as the refusal to defend recidivists), that institution is far from able to solve the problem of the lack of legal counsel for criminal defendants. ONUSAL has conducted a special investigation into the functioning of the Office of the Chief State Counsel in cases involving military and common crimes in areas outside the country's central region, encompassing the Departments of La Paz, San Vicente and Cabañas. Through the follow-up of a representative number of cases, it had been possible to establish, together with the need for greater professionalism on the part of staff members of the Office of the Chief State Counsel, the desirability of adopting an integrated approach to the problems of the right to legal counsel, which should include the strengthening of the Judicial Branch.

28. The prison population is mostly illiterate or semi-literate; inmates are not informed of their rights and obligations, either by judges or upon entering a detention centre and, in general, lack minimum information on the status of their case. The Mission has noted that accused persons are very rarely notified of judicial decisions; in general, they are informed only of the final sentence, and then the information sometimes is vary late.

29. With a view to improving the exercise of the right to legal counsel, the Legislative Assembly recently adopted a draft law on legal assistance and public defenders, originating with the Ministry of Justice. According to this law, every accused person has the right to be defended immediately, from the beginning of the extrajudicial proceedings or the trial, by legal counsel selected by him or designated by his next of kin or, in the absence thereof, by a court-appointed lawyer. What is innovative about this is the reform

which establishes the defence lawyer's powers during police investigations, an aspect not governed by the Code of Criminal Procedure currently in force. Another innovative aspect of the law is that the presence of a defence lawyer during non-jury trials is made mandatory rather than optional, which is consistent with the notion that all trials should have an adversarial nature.

5. Pre-trial detention, bail and delayed administration of justice

30. A judge of first instance, as well as a justice of the peace, can order an accused person to be detained for the purposes of taking a deposition; the accused can then be held for 72 hours. Within this period, the court having jurisdiction must either order the accused to be released or order him to be held pending trial. Even this rule has exceptions in practice. In one case (ORSS/872), an accused person had not yet made a statement 10 days after his arrest. In another case (OSRU/0296), an accused person detained on the order of a judge of first instance was held for up to 70 days in a National Police interrogation centre, which is not an official place of detention. While the present report will not deal with specific aspects relating to conditions of detention or imprisonment, the case constitutes a flagrant irregularity in the rules of pre-trial detention. The criteria for ordering preventive detention are twofold: there must be sufficient proof that a crime has been committed, and sufficient evidence to suggest that the accused participated in the commission of same, although in a number of crimes, the second criterion suffices.

31. Once pre-trial detention has been ordered, the possibilities of obtaining bail are meagre. Bail is warranted only where the crime is punishable by a fine or a maximum sentence of three years' imprisonment. Nearly all crimes of any significance exceed that scale of penalties. For example, theft is punishable by one to five years' imprisonment where the value of the stolen item is greater than 20 colones (US$ 2.50). Moreover, bail is restricted by numerous exceptions. As a result, bail becomes so difficult to obtain that pre-trial detention ceases to be a way of ensuring the presence of the accused and becomes, in many cases, a form of advance penal servitude, notwithstanding the principle of presumption of innocence. This is reflected in the make-up of the prison population, in which there is an extremely high ratio of accused to convicted persons. This phenomenon is frequently accompanied by a prolonged delay in the administration of justice.

32. According to recent data (see appendix), there were a total of 5,286 prisoners in the penitentiaries and penal centres in the country, of whom 4,755 were awaiting trial and 531 were serving sentences; that amounts to 89.95 per cent awaiting trial and 10.05 per cent serving sentences. In El Salvador, as in many countries, the time-limits for instituting proceedings and conducting a trial are not adhered to. Under the law, the judge must complete the investigation within no more than 120 days; although in itself that is a reasonable period of time, in many cases it is not observed. The greatest delays seem to occur in the most densely populated departments,

including San Salvador and the adjoining areas, and Santa Ana and San Miguel. According to certain estimates it takes more than two and a half years, on average, to try a criminal case. During a visit to one prison the Mission was informed that one of the prisoners, who had been arrested on suspicion of stealing, had been awaiting trial for four years. On another occasion, ONUSAL was told about the case of one person who had been arrested on 25 March 1983 and sentenced by the court of first instance to 16 years in prison for murder, which sentence had not yet been confirmed by the Chamber of Second Instance. It is estimated that the number of prisoners awaiting sentencing continues to increase slightly each year.

33. Offences punishable by not more than three years in prison and those punishable by fines are handled by summary proceedings in the courts of first instance. With certain exceptions, including those involving abduction, extortion, rape, theft, robbery, swindling and drug and narcotics-related offences, cases are dealt with by jury panels. Moreover, pursuant to a recent reform, the panels for the more serious offences have been concentrated in the largest cities and judicial districts. Whereas, in the recent past these panels were often not formed, which in many cases resulted in a postponement of the public hearing, now this no longer happens. f/ Last year there were 1,532 final sentences handed down of which 787 were convictions and 745 were acquittals; this does not appear to be sufficient to eliminate the delays in the administration of justice. The pace has not been any faster during the first two months of this year indicating that the problem of delayed justice still persists. g/

34. To a large extent, overcoming the delays is a matter of human and material resources. The Mission has been able to ascertain the magnitude of the needs in the country, not only in terms of the number of judges and court personnel, but also in terms of training of many of the staff involved with the administration of justice and of the physical infrastructure they can utilize. The delays in the penal system prompted the Legislative Assembly to adopt an Emergency Act to resolve the problem of Unconvicted Prisoners (Decree No. 769 of 25 April 1991), effective for one year as from 29 May 1991. Under this Act, prisoners who have been awaiting sentencing for longer than the period allowed by law must be released. As of the writing of this report, 448 individuals had been released under this Act, less than 10 per cent of the total prison population. This initiative was intended to resolve not only the problems concerning the delays in the courts but also those arising from prison overcrowding. The modest results resulting from implementation of the Act demonstrate that the measure did not produce the desired effects.

35. The Supreme Court of Justice decreed that an official known as the "Inspector of Prisons" should act as a liaison between the judicial organ and the prisoners. Although one of his functions is to monitor the progress of the proceedings and to report any shortcomings he may find to the judges, the initiative does not seem to have speeded up the proceedings to any significant degree. Nevertheless, the intervention of these officials has made it possible to avoid a number of abuses.

36. The delays in the Courts violate the provisions of the international human rights treaties ratified by El Salvador at least in three respects: the right of every person arrested on criminal charges to be tried promptly or released, the right of every person charged with an offence to be tried without delay and the exceptional nature of pre-trial detention. h/ With respect to the latter, the present understanding is that pre-trial detention must not be used to achieve ends which legitimately fall within the framework of criminal penalties. It is not intended to in effect become a prison sentence but to make sure, in specific cases, that the accused is not able to elude justice or to impede the progress of the investigation. i/

37. One point worth bearing in mind is the final document of the research programme of the Inter-American Institute of Human Rights on penal systems and human rights in Latin America. This document proposed that pre-trial detention that continues for more than two years without the accused or the defence having arbitrarily impeded the progress of the proceedings, should be deemed a violation of human rights and should not be permitted in any country in the region. It also suggested establishing in the constitutions that the maximum period for pre-trial detention may not exceed four months, save when the accused or the defence have arbitrarily impeded the progress of the proceedings. It was also proposed that no one should be held pending trial for the maximum period currently allowed, if that would be more than half the length of time which the accused might have to serve were he to be convicted. j/

38. With respect to the delay in the administration of justice, as with other aspects of criminal proceedings and criminal investigation outlined in this report, the Mission has been able to ascertain that its interventions with the judicial organ - whether with the justices of the peace or the courts of first instance - have had a positive effect in many cases. Nevertheless, on the whole this has been confined to cases raised by ONUSAL observers and it has not had a similar effect on the treatment of other cases, nor has it produced an overall improvement in judicial practice. As will be pointed out in the conclusions, judicial reform involves resolving structural problems. In the belief that it would be desirable to consider, step by step, a series of systematic changes, the Mission has formulated the recommendations contained in the relevant chapter concerning various critical aspects of the criminal justice system.

B. Identity documents

39. ONUSAL has given priority attention to the issue of identity documents for displaced persons and returnees and all persons in the areas involved in conflict (San José Agreement, paras. 7 and 8) and has made recommendations on this issue in its two previous reports. The two legislative decrees designed to deal with the situation of persons who have no documents have entered into force. One of them consists of a series of reforms to the act on the Replacement of Registers and Entries in the Civil Registry k/ to facilitate

the replacement of those registers which were damaged in the past and replacement of all kinds of certificates including birth certificates. The other, a special transitional measure for establishing the civil status of persons affected by the conflict having no Documents - which is in effect for one year as from 24 March 1992 - facilitates the registration of any person whose birth has not been registered for reasons relating to the internal conflict, including minors born abroad. The Mission applauds the promulgation of these measures and the good will demonstrated by many mayors in tackling the problem of persons having no documents and it hopes that the question relating to the implementation of the new rules will be resolved speedily and effectively.

III. CASES AND SITUATIONS RELATING TO INTERNATIONAL HUMANITARIAN LAW

40. In section III of its first report the Mission stated the limits within which it would verify cases and situations involving international humanitarian law as part of the mandate conferred by the San José Agreement. The Cessation of the Armed Conflict went into effect on 1 February 1992 and will be completed on 31 October 1992 pursuant to the Peace Agreement of 16 January 1992. This report covers that period. One element of the Cessation of the Armed Conflict is the end of the military structure of FMLN and the reintegration of its members, within a framework of full legality, into the civil, political and institutional life of the country. International humanitarian law includes norms that also apply to the cessation of hostilities. 1/ Although the situation established in the Peace Agreement could not be specifically provided for in the applicable treaty provisions, it is the Mission's understanding that the protection granted by international humanitarian law remains in effect throughout the entire period of the Cessation of the Armed Conflict. In the light of these considerations it will continue to consider the issue during that period.

41. As may be seen from the statistics contained in the appendix, the Mission has continued to receive reports of violations of international humanitarian law during the period covered by this report. Complaints against the Armed Forces on those grounds fell drastically during the month of January and were almost non-existent in February and March. That was not the case with respect to FMLN: communications concerning violations by FMLN of international humanitarian law continued to be received as did reports of abductions. Although ONUSAL has discounted a number of these reports, considering them false or inadmissible, it has also been able to ascertain that in certain cases there have been violations attributable to FMLN. That has been true in case No. SORU/293 involving José Avalos, who was held for nine hours on 30 March 1992. Shortly thereafter, on 7 April 1992, Avalos was murdered by a group of persons unknown. According to the preliminary investigations conducted by ONUSAL this would seem to have been an ordinary crime, which the Mission will continue to investigate. The Mission has been able to verify other cases of persons who were held by FMLN for varying periods of time when

checking into the complaints made in case Nos. SORU/279 and SORU/290. In response to other complaints, FMLN informed ONUSAL that they were voluntary recruitments. However, the Mission continues to investigate some of these complaints when the FMLN replies are not entirely satisfactory.

42. Although there have been almost no reports of attacks on life in relation to international humanitarian law, the Mission continues to monitor closely the evolution of this phenomenon, particularly since the start of the Cessation of the Armed Conflict. Accordingly, case No. ORSM/537 concerning the death of Carlos Nuñez Membreno, which is being investigated by the relevant regional office, is particularly disturbing. Because of its significance, the Director of the Division of Human Rights also referred the case to FMLN, requesting exhaustive information on the case.

43. During this period there have been a great many complaints against FMLN regarding violations of the rules protecting the civilian population. A substantial portion of these communications are for the month of January and refer to acts or threats of violence, many of them relating to the so-called war tax. Although the number of these complaints declined in February and March they have not stopped entirely. When these communications were referred to FMLN, it denied all responsibility. The Mission continues to give full attention to these cases.

IV. CONCLUSIONS

44. The problems of the criminal justice system have many causes, some inherent in its structure and others resulting from the past and linked, in particular, to the internal armed conflict in El Salvador. An example of the latter is the large number of judges, known as "judges in exile", who have not been able to perform their functions in conflict zones, in nine of the 14 Departments of El Salvador. It is clear that the criminal justice system as a whole should be completely overhauled as part of a broader reform of the administration of justice, its auxiliary bodies, the Chief State Counsel's office and the function of defence lawyers. This process may be prepared through gradual reforms which, although partial, must be systematic, and which depend, for their success, on consensus and social participation. The initiatives developed in this respect in the Ministry of Justice are positive and should be encouraged as necessary steps towards far-reaching reform of the judicial system and, in particular, of the criminal justice system. In this context, all the social sectors have a specific role to play, but some are pivotal for the process of change. That is the case of the mass communications media, which to a large extent can promote or fail to promote the process of criminal justice reforms during the transitional stage.

45. The problems discussed in this report represent challenges which require not only legislative solutions, but political and institutional responses, not only from the State but from the citizenry as a whole. The flaws in the judicial system, demonstrated chiefly by its inability to investigate violent

deaths, the selectivity of the criminal justice system and delays in sentencing, cannot be remedied without basic reforms which must be made sooner or later and require painstaking campaigns of discussion and explanation. Only then will it be time to cope with structural defects, such as those which now exist. One example of those defects, organic in nature, is that the examining magistrate who investigates the facts of the case is at the same time the presiding judge who directs the proceedings and passes sentence. There will be no basic solution unless the independence and impartiality of the judiciary is upheld, and there is an increase in the number of judges, as well as an improvement in their training and of the human and material resources that support their work. In this respect, the Agreement on Peace and Constitutional Reform referred to earlier has laid the basis for the necessary changes. Education concerning the law and the legal system is an important factor in creating an awareness of the urgent need for the changes required in the existing criminal justice system. In order to strengthen this aspect of the protection and promotion of human rights, the Mission will make specific recommendations in this first report in which it has considered in more detail the problems of due process of law, in fulfilment of the mandate conferred on it by the San José Agreement (paras. 11 and 14 (h)).

V. RECOMMENDATIONS

46. In this section the Mission makes recommendations to the parties based on the conclusions drawn from the cases or situations it has reviewed (San José Agreement, para. 14 (g)). The parties have undertaken to give their earliest consideration to any recommendations made to them by the Mission (San José Agreement, para. 15 (d)).

A. Right to life and to security and integrity of person

Investigation of the facts

47. The Mission reiterates the recommendations contained in its second and third reports (para. 150 and paras. 154 and 155 respectively) and calls on the Government of El Salvador, the Office of the Attorney General of the Republic and the Judiciary to take decisive and firm measures for the prevention and investigation of violations of the right to life and to security and integrity of person. The National Police should be provided with the necessary material resources to carry out its functions and ensure that it maintains professional standards in carrying out proper investigations. Judges should use the powers of investigation accorded under the law and improve coordination with the National Police. Judges of the first instance should personally conduct the investigations in cases that have given rise to serious social unrest and in particular to encroachments on the right to life. The autonomy and independence of the Chief State Counsel's Office should be strengthened. Prosecutors should play an active role in initiating proceedings and investigating crimes, and the Attorney General of the Republic should use all

the powers available to him under the judicial system, including that of appointing special commissions (Constitution, art. 193 (7)), which could be done selectively to clear up relevant cases. m/ Prosecutors should take into account the United Nations Guidelines on the Role of Prosecutors and, in particular, those concerning prosecutors in criminal cases. Furthermore, a register of victims of deaths from other than natural causes could be established.

B. Right to due process of law

1. Extrajudicial confessions

48. Until a measure such as a draft law prohibiting extrajudicial confession is approved, the duration of any interrogation of a detained or imprisoned person and of the intervals between interrogations as well as the identity of the officials who conducted the interrogations and other persons present should be recorded and legally certified. A detained or imprisoned person, or his counsel, must have access to that information in accordance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly in resolution 43/173 of 9 December 1988 (Principle 23). Furthermore, the principles invalidating statements made in an atmosphere of intimidation, or under any form of coercion, must be observed. In particular, acts of psychological coercion or classic coercion (torture and other cruel, inhuman or degrading treatment or punishment) during interrogation must be severely punished. In addition to the provisions of domestic law and of international treaties ratified by El Salvador, the recommendations contained in the Body of Principles cited above and of the Code of Conduct for Law Enforcement Officials should be taken into account.

2. Administrative detention

49. The police should hold accused persons in administrative detention for a maximum of 72 hours only where the gravity of the charge and the difficulties of the investigation make this strictly necessary. Under no circumstances should this period be exceeded. Courts should monitor the administrative detention of accused persons from the moment of their detention. Courts of first instance should undertake such monitoring in all cases in which the circumstances of the crime or the position of the accused or of the victims have provoked social unrest. Courts should exercise more rigorous supervision over places of administrative detention, through regular visits and inspection of the records. Also, through legislative reform such as that proposed in the bill prepared by the Ministry of Justice, efforts should be made to reduce the maximum period of administrative detention to a reasonable length.

3. Incommunicado detention

50. The commitment given in the San José Agreement concerning the prohibition of incommunicado detention must be scrupulously respected. There should be no derogation from this principle nor can it be modified by the application of disciplinary measures in prison or during pre-trial detention. Any person deprived of his freedom should therefore be allowed, from the very beginning of his detention, to communicate, especially with his family, relatives and counsel and with humanitarian organizations. In this connection, the Mission recommends that a study be undertaken of legislative reform that would explicitly incorporate this guarantee in the Code of Criminal Procedure.

4. The right to legal counsel

51. Without prejudice to the application of the new legal norms governing legal assistance and public defenders, upon the entry into force of those norms, the competent authorities should effectively advise any person, whether or not detained, against whom an investigation by the auxiliary organs of justice is being initiated of his right to appoint legal counsel. The accused should be advised of this right from the moment he is charged. Any person arrested or detained, on a criminal or other charge, shall be guaranteed access to counsel immediately and in all cases within 48 hours of his arrest or detention, in accordance with the basic principles on the role of lawyers (Principle 7). n/ A special effort should also be made to train public defenders.

5. Pre-trial detention

52. A person may be subject to pre-trial detention only where such detention is necessary to ensure his presence at the trial or to prevent any obstacles being placed in the way of the investigation. Courts should use the maximum term of 72 hours for their investigations (art. 244 of the Code of Criminal Procedure) only where the gravity of the offence and the difficulties of the investigation render this strictly necessary. The rules governing the length of pre-trial detention set forth in paragraph 37 of this report should be respected and a legal provision should be adopted establishing procedures for automatic release based on the above-mentioned rules, when the emergency law to resolve the problem of untried detainees ceases to have force.

6. Delay in the administration of justice

53. A special effort should be made to observe the time limits prescribed by law for concluding the pre-trial proceedings in criminal cases and to ensure that those proceedings in no case exceed what may be considered a reasonable period. Also, the delays provided for the trial itself from its commencement to the rendering of the judgement and notification of a final sentence should

be respected. In order to promote respect for the right to be tried without undue delay, the Mission recommends that the organization of the administration of justice and of the Office of the Chief State Counsel should be strengthened by implementing the judicial system reforms that have been incorporated into the Constitution of the Republic as a result of the signing of the Peace Agreement.

C. National Counsel for the Defence of Human Rights

54. The financial and capital resources provided for in the law establishing the National Counsel for the Defence of Human Rights must be made available, particularly the contributions and grants made by the Central Government, and steps must be taken to ensure the transfer of the funds necessary for the start-up operations of this new institution.

D. Identity documents

55. The central authorities and local bodies must assist mayors in applying the new laws in this field, as well as all the other procedures for the documentation of personal identity. Such assistance should include clear and consistent instructions to municipalities on the application of the new norms in conformity with the principles of equality before the law and non-discrimination. The process of documentation must be completed in the shortest possible period to facilitate the full reintegration of the persons concerned into national life.

E. Respect for international humanitarian law

56. The Mission recommends that the parties, during the entire period of cessation of armed conflict, should strictly observe the norms of article 3 which are common to the four Geneva Conventions of 12 August 1949 and to Additional Protocol II o/ to those Conventions, particularly with regard to the fundamental guarantees concerning the treatment of human beings and the protection of civilian populations.

F. Follow-up to recommendations

57. On 7 January 1992, the Mission sent notes to both the Government of El Salvador and FMLN seeking to ascertain the manner in which the recommendations contained in its second report (paras. 146 and ff.) were being followed. The notes included a reminder of the thrust of those recommendations. FMLN, on 27 April 1992, sent a letter in reply to the note of the Mission. The Government of El Salvador has not yet responded to the Mission's request.

Notes

a/ The number of complaints received by the Mission from January to March 1992 declined by 19.7 per cent as compared with October-December 1991. The decline was even more drastic with regard to complaints of violations of international humanitarian law - as much as 79.1 per cent. Complaints of irregular recruitments dropped by 58.7 per cent.

b/ Commission for the Revision of Salvadorian Legislation, "Immediate Reforms to the Code of Criminal Procedure", first part, vol. II, July 1987, p. 389; see also p. 402.

c/ The Technical Support for Judicial Reform unit (ATJ) worked out several drafts of partial reforms in penal and criminal procedures pending preparation of new drafts of the Penal Code, the Code of Penal Procedure and Execution of Penalties. As of 31 March, the President had tabled bills dealing with legal assistance and public defence - that have now been passed by the Legislative Assembly - and with decriminalization of theft and fraud among close relatives and the elimination of presumptions of guilt. Bills dealing with the repeal of the practice of extrajudicial confession, of the period of administrative detention and indivisibility of confession.

d/ International Covenant on Civil and Political Rights (General Assembly resolution 2200 A (XXI), annex, and American Convention on Human Rights.

e/ This provision was included among the commitments for immediate action on human rights of the San José Agreement and in annex A of the operations manual on priority to be given to investigations, arrests and rights of detained persons prepared by the Joint General Staff of the Armed Forces on 31 July 1990.

f/ In the period July 1990-June 1991, there were 207 public hearings held, 162 convictions and 263 acquittals.

g/ In January 1992, 125 final sentences had been pronounced in criminal cases, 60 convictions and 65 acquittals. In February 1992, 113 final sentences were pronounced, 63 convictions and 50 acquittals.

h/ The International Covenant on Civil and Political Rights recognizes those rights (art. 9 (3) and 14 (3) (c)). Apart from the provision that "... It shall not be the general rule that persons awaiting trial shall be detained in custody ..." - that only appears in the Covenant - those rights are also established by the American Convention on Human Rights (art. 7 (5) and 8 (1)).

i/ The exceptional nature of pre-trial detention is also established by an important international instrument which was recently adopted by the General Assembly in its resolution 43/173 of 9 December 1988, namely the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment, principles 36 (2), 37, 38 and 39.

Notes (continued)

j/ See "Penal systems and human rights in Latin America", Final Document of the research programme conducted by the Inter-American Institute of Human Rights (1982-1986). Coordinator: Professor Eugenio R. Zaffaroni; Publisher: Depalma, Buenos Aires, 1986, p. 149 and ff.

k/ Issued in Decree No. 577 by the Revolutionary Government Junta on 26 January 1981.

l/ See Additional Protocol II to the Geneva Conventions of 12 August 1949, art. 6 (5) (United Nations Treaty Series, vol. 1125, No. 17513).

m/ Guidelines on the Role of Prosecutors adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Havana, Cuba, from 27 August to 7 September 1990 (A/CONF.144/28).

n/ Basic Principles on the Role of Lawyers adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (op. cit.).

o/ United Nations Treaty Series, vol. 75, Nos. 970-973 and ibid., vol. 1125, No. 17513.

Appendix I

Prisoners by penal institution as at 6 March 1992

Penal institution or detention centre	Total by penal institution	Convicted		Total convicted	Awaiting sentence		Total
		M	W		M	W	
GENERAL TOTAL	5 286	522	9	531	4 497	258	4 755
Central Prison	2 084	177	-	177	1 907	-	1 907
Western Reg. Prison a/	611	35	-	35	558	18	576
Eastern Reg. Prison	580	130	-	130	447	3	450
Atiquizaya Prison	96	2	-	2	90	4	94
Prison Hosp. for lung diseases	16	2	-	2	14	-	14
Prison Hosp. at Rosales	10	-	-	-	10	-	10
Prison Hosp. for psychiatric diseases	40	1	-	1	33	6	39
Women's Prison: Ilopango	289	-	9	9	-	280	280
La Union Prison	78	14	-	14	64	-	64
Quezaltepeque Prison	218	36	-	36	179	3	182
Gotera Prison	220	18	-	18	202	-	202
San Miguel Prison	369	41	-	41	320	8	328
Sensuntepeque Prison	193	26	-	26	167	-	167
Sonsonate Prison	327	18	-	18	304	5	309
Usulutan Prison	162	22	-	22	132	8	140
Tonacatepeque Prison	73	-	-	-	70	3	73
Total %	100%	9.88	0.17	10.05	85.07	4.88	89.95

a/ Includes Santa Ana Women's Prison.

Appendix II

Table 1. Complaints received by ONUSAL a/

	January	February	March	Total
Summary executions				
Attributed to members or former members of the armed forces b/	7	4	4	15
Attributed to others	4	7	9	20
Attributed to persons unknown	12	11	16	39
Death threats				
Attributed to members of the armed forces	13	11	6	30
Attributed to others	6	8	16	30
Attributed to persons unknown	5	9	6	20
Enforced or involuntary disappearances				
Attributed to members of the armed forces	3	2	3	8
Attributed to persons unknown	3	-	1	4
Abductions attributed to FMLN	7	4	6	17
Attributed to others	5	4	-	9
Attributed to persons unknown	3	-	1	4
Torture	1	2	-	3
Cruel, inhuman or degrading treatment or punishment	23	20	19	62
Other violations of those rights				
Attributed to members of the armed forces	11	14	18	43
Attributed to others	6	7	11	24
Attributed to persons unknown	26	23	25	74
Violations of due process of law	49	76	66	191
Violations of personal liberty				
Illegal or arbitrary detention	66	43	57	166
Restrictions on freedom of movement	7	1	4	12
Irregular recruitment	100	26	5	131
Violations of freedom of association	6	1	7	14

/...

Table 1 (continued)

	January	February	March	Total
Violations of freedom of expression	-	-	6	6
Humanitarian law				
Humane treatment				
Violations attributed to the armed forces	3	-	-	3
Violations attributed to FMLN	4	3	4	11
Civilian population				
Violations attributed to the armed forces	1	-	-	1
Violations attributed to FMLN	22	12	13	47
Unattributable	3	-	-	3
Inadmissible complaints	97	118	148	363
Total	493	406	451	1 350

Note: The figures for the month of April 1992 will appear in the next report of ONUSAL to the United Nations Secretary-General.

a/ The total or partial figures included refer to complaints received and should not be construed as an affirmation by ONUSAL that the violations actually took place.

b/ "Armed forces" includes the following defence institutions: army, air force and navy, security bodies, civil defence and territorial services.

Table 2. Statistics from the Human Rights Office of the Armed Forces General Staff a/

Violations of human rights by FMLN

Category	January	February	March	Total
Murders of civilians	1	-	1	2
Persons injured or maimed	2	5	-	7
Attacks on the civilian population	3	11	3	17
Abductions of civilians	38	112	6	156
Acts of violence or threats against civilians	3	13	19	35
Forcible recruitment of children under 15	-	-	-	-
Persons killed by mines	1	5	2	8
Persons killed during attacks	-	-	-	-
Persons maimed or injured by mines	2	13	7	22
Rapes	-	-	2	2
Attacks on property	-	5	4	9
Unlawful seizures of land	5	25	12	42
War taxes	-	-	-	-
Total	55	189	56	300

Source: "Statistical information on human rights violations for the months of October, November and December 1991", Human Rights Office of the Armed Forces General Staff.

a/ The governmental Human Rights Commission has not furnished statistics for this period.

Table 3. Statistics from the Legal Protection Office of the Archdiocese of San Salvador a/

Category	January	February	March	Total
Persons arrested	2	1	1	4
Persons arrested and disappeared	-	3	7	10
Persons disappeared	8	2	2	12
Persons arrested and later released	2	-	4	6
Persons abducted by FMLN	-	1	-	1
Prisoners of war held by FMLN	-	-	-	-
Forcible recruitment by FMLN	-	-	-	-
Deaths attributed to death squads	5	6	6	17
Deaths attributed to the armed forces	8	6	1	15
Deaths caused by explosive devices, responsibility unknown	7	6	-	13
Deaths caused by explosive devices, attributed to the armed forces	-	-	-	-
Deaths caused by explosive devices, attributed to FMLN	-	-	-	-
Deaths occurring during cross-fire, responsibility unknown	-	-	-	-
Deaths occurring during cross-fire, attributed to the armed forces	-	-	-	-
Deaths occurring during cross-fire, attributed to FMLN	-	-	-	-
Deaths occurring during army operations (civilians and combatants)	-	-	-	-
Deaths occurring during clashes, ambushes or army patrols (civilians and combatants)	8	-	-	8
Murders attributed to FMLN	1	-	1	2
Army and security force casualties	3	-	-	3
Total	44	25	22	91

Source: Legal Protection Office of the Archdiocese of San Salvador.

a/ The Human Rights Commission of El Salvador (non-governmental) has not furnished statistics for this period.

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OF THE DECLARATION ON THE
STRENGTHENING OF
INTERNATIONAL SECURITY

SECURITY COUNCIL
Forty-seventh year

Letter dated 5 June 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to transmit, enclosed herewith, a telegram of 5 June 1992 from the Vice-President of the Presidency of Yugoslavia, Dr. Branko Kostić, addressed to the Secretary-General.

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council and of the General Assembly under agenda item 68.

(Signed) Dragomir Djokić
Ambassador
Chargé d'affaires a.i.

Annex

Telegram dated 5 June 1992 from the Vice-President of the Presidency of Yugoslavia addressed to the Secretary-General

The Presidency of the Federal Republic of Yugoslavia has reviewed Security Council resolutions 752 (1992) and 757 (1992) as well as your report to the Security Council of 30 May this year (S/24049). In connection with the requests contained in the above documents, the Presidency has the honour to inform you that the Federal Republic of Yugoslavia is honouring all its international obligations as stipulated by international law and the United Nations Charter and is firmly resolved to fulfil all the requirements emanating from resolutions 752 (1992) and 757 (1992).

1. Respect for the territorial integrity of Bosnia and Herzegovina

The Federal Republic of Yugoslavia lays no territorial claims on Bosnia and Herzegovina or any other country. This position was formally proclaimed by the Assembly of the Federal Republic of Yugoslavia at its session of 27 April 1992 when the Constitution of the Federal Republic of Yugoslavia was promulgated. This is to be considered as the definitive position of the Federal Republic of Yugoslavia by which it will consistently abide.

2. Cease-fire in Bosnia and Herzegovina

The Federal Republic of Yugoslavia is doing its utmost so that the cease-fire in Bosnia and Herzegovina be put in place. To that end, the Presidency of Yugoslavia has, among other things, publicly urged the Serbian leadership in Bosnia and Herzegovina:

- To initiate an immediate cease-fire and consistently abide by it and stop the shelling of Sarajevo and other towns from the territories under its control;

- To invite immediately the representatives of the United Nations Protection Force in Yugoslavia (UNPROFOR) to take the Sarajevo Airport under their control, in conformity with the commitment the Serbian leadership in Bosnia and Herzegovina has undertaken and publicly declared;

- To invite UNPROFOR to send observers to all its units to monitor directly the cease-fire, since the Serbian leadership in Bosnia and Herzegovina itself proposed an immediate cease-fire;

- To ensure and provide guarantees on the territory under its control for the unhindered passage of all humanitarian relief.

The Federal Republic of Yugoslavia and its institutions will do everything for its part so that these demands are fully supported and appreciated by the Serbian leadership in Bosnia and Herzegovina. However, the

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authorities of the FR of Yugoslavia expect the international community to influence the Muslim and the Croatian parties as well, to bring about an immediate cessation of hostilities on their part.

3. Withdrawal and demobilization of military effectives in Bosnia and Herzegovina

The Federal Republic of Yugoslavia most emphatically strives for the implementation of resolution 752 (1992) and the withdrawal of all foreign military effectives from Bosnia and Herzegovina. We have for our part taken the necessary measures and completed the withdrawal of the Yugoslav People's Army (JNA), i.e., the citizens of the FR of Yugoslavia within its ranks.

The authorities of the FR of Yugoslavia are doing their utmost to achieve an agreement with the Muslim and Serbian parties in Bosnia and Herzegovina on the withdrawal of the remaining 800 cadets from the blocked garrisons in Sarajevo, so that they may return to the territory of the FR of Yugoslavia as soon as possible.

However, certain elements of the former JNA have remained in Bosnia and Herzegovina, as citizens of that republic. They have joined with some of the weaponry the armed formations of the Serbian people of Bosnia and Herzegovina as has been the case with certain other elements of the JNA that had previously joined the Muslim and Croatian armed formations.

The Presidency of Yugoslavia is fully aware of the need for all military effectives to be demobilized, including those mentioned above, in accordance with the Security Council demand. However, since the authorities of the FR of Yugoslavia are objectively not in a position to do so as they do not have control over those forces, we have proposed that this operation be carried out jointly by the Russian Federation and the United States of America under the auspices of the United Nations. Yugoslavia is prepared to extend its full cooperation in the implementation of this undertaking.

4. Disbanding and disarming of all paramilitary units

The Federal Republic of Yugoslavia supports the demand of the Security Council that all paramilitary units in Bosnia and Herzegovina including those that might come from the outside, be immediately disbanded and disarmed. In that vein, in the territory of the FR of Yugoslavia, any formation and arming of such units is strictly prohibited by law and effective steps have been taken to prevent the formation of any such groups or armed individuals and their infiltration into the territory of Bosnia and Herzegovina. We have proposed that international control be established by deploying United Nations observers along the border between the FR of Yugoslavia and Bosnia and Herzegovina.

5. Effective and unhindered delivery of humanitarian aid

The Federal Republic of Yugoslavia is endeavouring in every possible way to mitigate the suffering of citizens in Bosnia and Herzegovina and towards

that end, it has already itself distributed large quantities of humanitarian aid in the form of foodstuffs, medicaments, etc., and it will continue to do so within its possibilities. The authorities of the FR of Yugoslavia are also persistently urging and exerting pressure on all the parties to the conflict to enable an effective international humanitarian operation to provide relief to the citizens of Bosnia and Herzegovina and Sarajevo, in particular. In that regard, we have pressed for the opening of all communications and the Sarajevo Airport in particular so that the humanitarian relief may be delivered and that the humanitarian organizations may perform their mission. The Federal Republic of Yugoslavia guarantees absolute safety of communications on its territory for the transportation of humanitarian aid and the activities of humanitarian organizations.

6. Preventing forced displacement of population

There are no instances of forced displacement of population on the territory of the Federal Republic of Yugoslavia, which, unfortunately is not the case in the areas engulfed in the conflicts. We publicly advocate the prevention of such practices and demand that all the factors involved most energetically oppose anyone, regardless of who that might be, committing such an evil crime. On the territory of the FR of Yugoslavia full respect for all human rights and freedoms, including the rights of national minorities has been ensured and we are advocating that respect for human rights in the embattled territories be equally ensured.

7. Political negotiations for a durable solution to the crisis

The Federal Republic of Yugoslavia believes that a lasting solution to the crisis in Bosnia and Herzegovina can be found through an effective political agreement among the three constituent peoples and emphasizes that it shall respect any such agreement. We support the Conference on Bosnia and Herzegovina under the auspices of the European Community. In that regard, it is necessary to invest special efforts to influence the Muslim side to return to the negotiating table as the best way to achieve a solution.

8. Cooperation with UNPROFOR

The Federal Republic of Yugoslavia highly appreciates the ongoing constructive engagement of UNPROFOR both in the United Nations Protected Areas (UNPAs) and in Bosnia and Herzegovina.

The unquestionable objective, impartial and dedicated engagement of UNPROFOR provides the possibility for the entire international community to learn about the real state of affairs on the ground so that the United Nations, and primarily the Security Council, may address it in the most adequate way. Their role in objectively evaluating the situation was reaffirmed in the report of the Secretary-General of 30 May 1992.

The Federal Republic of Yugoslavia notes again that an end to the armed conflict in Bosnia and Herzegovina is its vital interest. It fully appreciates the intentions of the Security Council in adopting resolutions

752 (1992) and 757 (1992) and declares that, for its part, it shall do the utmost to implement them and to defuse the situation in Bosnia and Herzegovina.

However, as your own report to the Security Council of 30 May 1992 indicates, all the relevant circumstances were not taken into account in the course of the adoption of those resolutions. Consequently, there is a real danger that the principal objective of the resolutions - to contain the conflict and stop the war in Bosnia and Herzegovina - may not be attained.

It is necessary to obtain all objective and full information in order to have a realistic assessment of the situation in Bosnia and Herzegovina. The recently adopted resolution 757 (1992) and the mandatory measures are based upon the misconception that the FR of Yugoslavia is the aggressor and the responsible party for the armed conflict in Bosnia and Herzegovina whereupon the role of all the parties involved has not been objectively assessed. There are three warring national armies in Bosnia and Herzegovina under the influence of various quarters. The Federal Republic of Yugoslavia is not involved in Bosnia and Herzegovina as a warring party and does not have an influence on the course of events there ascribed to it by those resolutions. Your report of 30 May 1992 provides a realistic evaluation of the role of Yugoslaiva, but also of other parties. Regrettably, these facts have not been taken into account.

Any one-sided approach to the conflict in Bosnia and Herzegovina can lead to a tragedy with unforeseeable consequences for the FR of Yugoslavia, the region and relations at large, rather than to the desired goal - the end of war in Bosnia and Herzegovina.

For all these reasons, we are asking the Security Council to convene a meeting which would, in the light of the real situation on the ground including the information contained in your report of 30 May 1992, and especially of the fact that the FR of Yugoslavia has positively responded to all the demands of the relevant Security Council resolutions, adopt an appropriate resolution lifting the mandatory measures imposed on the Federal Republic of Yugoslavia.

Yugoslavia shall do everything in its power to consistently fulfil the obligations it has assumed.

Allow me to assure you that Yugoslavia, as a founding member of the United Nations committed to the goals and principles of the United Nations Charter, shall do its utmost so that peace and tranquillity as well as economic and social prosperity may return to these lands as soon as possible.

VICE-PRESIDENT OF THE PRESIDENCY
OF YUGOSLAVIA

DR. BRANKO KOSTIĆ